

February 15, 1977

The Natural Resources Committee convened in room 437 on February 15, 1977, at 7 a.m. with Chairman Sheldon presiding and all members present except for Rep. Huennekens who was excused.

Chairman Sheldon opened the meeting to an executive session on the following bills.

HOUSE JOINT RESOLUTION 19

This bill had been in the Plant Siting Sub-Committee and its chairman, Rep. Hirsch, moved that it do pass. It was seconded and carried unanimously by those present (Reps. Huennekens, Nathe, Ernst were not present when the vote was taken).

HOUSE BILL 542

This was also in Rep. Hirsch's sub-committee and he recommended the bill do pass. Rep. Bengtson seconded the motion. Rep. Harper expressed a fear that we would be giving them money for something they already do. Rep. Burnett said the Natural Resources Department thought it would be a good inducive measure. Rep. Quilici felt it showed good faith and he didn't see any problem and it would help the department determine feasibility of a plant site. A roll call vote was taken --13 yes, 1 no (Harper), 1 abstain (Metcalf), and 2 absent (Ernst and Huennekens).

HOUSE BILL 431

Rep. Harper moved to table this bill. Motion carried unanimously by those present (Ernst and Huennekens absent).

HOUSE BILL 292

This bill has been in the Conservation and Public Participation Sub-Committee and its chairman, Rep. Bengtson, reported this bill out. She said it had been heard in the taxation committee and was re-referred to this committee at the Sub-Committee's request. She said this was the best vehicle to address tax incentives, not only for alternative energy but for capital investments for things like insulation. She said they found it does not exempt grant holders so suggested an amendment for page 3, section 1, line 3, following "84-7404" which would read "and may not be granted for expenditures and capital investments financed by a state, federal, or private grant for renewable energy sources". Rep. Bengtson moved the amendment. Motion carried unanimously with those present (absent were Ernst, Burnett, Huennekens). Rep. Cooney moved do pass as amended. Motion carried unanimously with the same absent as on the amendment.

HOUSE BILL 577

This bill had been in the Extraction and Conversion Sub-Committee and its chairman, Rep. Kessler, moved that the bill do not pass. Rep. Cooney seconded the motion. Rep. Metcalf said in 1978 the first bonds will have run five years -- and we'll see if reclamation can work. He felt we should wait and see.

During discussion it was brought out that five years may not be long enough to establish diverse native grasses, even on undisturbed land. The feeling seemed to be that introduced species should be included but not cropland.

Question was called and a roll call vote taken: ten voted yes, five no (Burnett, Cox, Curtiss, Davis, Hurwitz), two absent (Ernst and Huennekens). Motion carried.

Rep. Hirsch asked if it would be possible to come up with a committee bill to permit introduced species of grass on reclaimed mine spoils.

Chairman Sheldon opened the committee meeting to a hearing on the following bills:

HOUSE BILL 614

REP. PISTORIA, the bill's chief sponsor, said this bill would eliminate the position of examining land surveyor and eliminate review of final plats by the examining land surveyor. He said he had some amendments which he would bring in for the committee's consideration. (Exhibit 1)

CHARLES SWART, representing a group of 95 registered land surveyors, spoke next. He asked that the statutes in regard to land surveys be returned to what they were before 1973. He said no other individual or group which files a document is required to have this check on his work and it is degrading. He said surveyors are less interested in shifting the blame on to somebody else--they would like to be responsible for their own work. (A copy of his testimony is Exhibit 2).

SONNY HANSON, Montana Technical Council and Registered Land Surveyors, spoke in opposition. He said on page 5, line 2, it shows that it is not mandatory--"the governing body may". He said they feel it has been very worthwhile and would not like to see it eliminated.

JIM RICHARDS, Department of Community Affairs, opposed the bill. He said the law as it is has value and benefit. He said it helps the clerks and recorders to do proper filing without errors.

DEAN ZINNECKER, Montana Association of Counties, opposed the bill. He said it was of utmost importance that these surveys be correct.

Questions were asked by the committee.

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Signing or presenting testimony supporting were:

Stan Skousen, Missoula, Exhibit 3.

Dennis Applebury, Victor

R. A. Ainsworth, Missoula, Exhibit 4.

HOUSE BILL 528

REPRESENTATIVE VINCENT, the bill's chief sponsor, said he sponsored this bill on the request of Montana's League of Cities and Towns. He said it was to provide that divisions of land within the corporate limits of a municipality, regardless of size and regardless of the period within which sold, are considered Sub-divisions.

AL THIELEN, Helena City Manager, spoke next in support. He said they have problems with large undeveloped plots within a developed urban area--interferes with the master plan and blocks development on the other side of the tract. He said Burlington Northern has a number of these in Helena.

DAVID L. HUNTER, Montana League of Cities and Towns, spoke in support of the bill. He felt it would help to remove the occasional sale provision within the city.

SONNY HANSON, Montana Technical Council, spoke in support. On page 4, lines 15 and 16, he saw a potential problem "Except within the corporate limits of a municipality"--what about Silver Bow County, which now has a unified government with the city of Butte.

PAUL BOLTON, Montana Association of Planners, spoke in support. He said he supports requirements in the bill in that it will allow municipalities to assure proper dedication of right-of-ways and necessary easements. He said the provisions of House Bill 528 will assure greater compliance with "master plan" objectives, as well as supporting provisions of any adopted capital improvements program.

WARD SHANAHAN, Attorney for Burlington Northern, opposed the bill. He said he appeared before the committee to explain the dispute between the city of Helena and the Burlington Northern over the sale of land for the new liquor warehouse. He felt the city is actually a competitor in developing, and is trying to stop its competition. He said the city has violated its once orderly development rules by placing a sewer line on Burlington Northern property without permission and without notice.

CLIFF CHRISTIAN, Montana Association of Realtors, spoke in opposition. He said there is a problem--some lots are 50 feet and now too small to build on--with the rules now all that is needed to add on from another lot is a cursory review. With this bill it would go under the subdivision law. If this problem could be worked out, he felt he might be able to withdraw his opposition.

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CHARLES SWART, representing land surveyors, spoke in opposition. He said this would be a large extra expense to the private citizen. He had maps that showed a simple certificate of survey to the required maps for a subdivision plat. He said a simple certificate of survey for 500 square feet would be about \$150 and to go through subdivision law about \$1,500.

MEL GENZBERGER, Silver Bow County, spoke in opposition. He said they have a unique problem as they have a unified city-county government (except Walkerville), and so have many unplatted subdivisions in the corporate limits.

REPRESENTATIVE VINCENT in closing said an amendment could be worked out for Silver Bow County. His answer to the small divisions of land was it could be taken care of through minor subdivision procedures. He said the bill is primarily designed to foster a better master plan. He said he was unaware of the dispute between Burlington Northern and Helena. He said he was submitting the bill on behalf of the people of the state.

During questions Representative Quillici asked of Mr. Genzberger if the bill were amended would it correct the problem for Silver Bow. His answer was it would be rather difficult to correct.

Submitting written testimony on House Bill 528 was: R. A. AINSWORTH, (Exhibit 5.)

HOUSE BILL 550

REPRESENTATIVE VINCENT, the bill's chief sponsor, said he would address the principle behind the bill and let other people carry the bill. He said in 1976 the Attorney General took the view that lots within a subdivision plat should be assessed as such. He said the philosophy behind the bill is that taxing subdivision lots as agriculture is a tax shelter.

JIM RICHARDS, Department of Community Affairs, said he agreed with the philosophy expressed by Representative Vincent--lots that are platted for building lots should be assessed as that and not as agricultural.

DEAN ZINNECKER, Montana Association of Counties, said he supported the bill for the reason given. He said this bill would correct the inequity that exists at the present time.

PAUL BOLTON, Montana Association of Planners, said he supported the comments given and wanted to go on record as supporting House Bill 550.

CLIFF CHRISTIAN, Montana Association of Realtors, spoke in opposition. He said in the Bitter Root Valley a lot of land has been subdivided into lots but is still being used for agriculture. He said the farmers looked ahead and planned well for their families--they will farm the land until they are ready to retire and then have enough income from selling lots to have a good retirement.

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JOHN JAPSON, Townsend, spoke in opposition. He said all land isn't prime agricultural land. He also felt this should be a local decision as to when the land moves from one use to another.

MEL GENZBERGER, Attorney from Silver Bow County, opposed the bill. He said the open pit mining is causing the town to move. He said there has been survey work south of town to look to the future, but the land is still in agriculture. He said there was a court decision which said this type of planning is on the county level, and he felt they are better able to judge it than the state.

CHUCK FRICKE, Florence, spoke in opposition. He felt this would hurt the small land owners.

PAUL KELLER, Helena, spoke in opposition. He said a small group owns 1,100 poor pasture-acres on which they have horses. He said there is no access, so couldn't be used for subdivided land, but, if this law was passed it would be as the largest tract is 11 acres. He said there were all kinds of land like this in the Helena Valley.

WARD SHANAHAN, representing several farmers in the Helena Valley, said they are actively engaged in farming; but with subdivisions springing up all around them, they wanted to have some control over what is happening. He said the effect of this legislation would be to force development, if their land is reclassified as subdivision property.

JERRY DITTO, Helena Valley, said he knew first hand how the taxes would jump. He said he filed his own plat in 10 acre parcels not building a road or putting in utilities, but the land was classified as residential and the taxes jumped from \$20 to \$1,100. He said he filed a tax appeal and won. He said the law specifically states that land is to be taxed as it is used. He said the only proponents for the bill are planners of cities and towns, environmental people and the government bureaucrats.

REPRESENTATIVE VINCENT in closing said they would like to pose one basic question for the committee to consider--whether the current tax status relative to this land is a tax loophole to subvert the Green Belt and Subdivision Law.

During questions, it was asked concerning a grandfather clause, so as not to force development of platted lands in agriculture use. Representative Vincent didn't think this was a good idea. He said market value is the deciding factor and will have a bigger effect than a statute. He said it was large developers who buy up large pieces of this land who reap most of the benefit--they buy and keep in agriculture to escape higher taxes and he said these are the people he is trying to address and not to penalize the small ranchers.

Presenting written testimony was DENIS APPLEBURY, Victor. (Exhibit 6)

HOUSE BILL 543

REPRESENTATIVE BRADLEY, the bill's chief sponsor, said this amends the existing subdivision law. She said many people are interested and concerned by what they consider loopholes in the present act. She said a study conducted by the Department of Community Affairs found that of the total subdivided acres in 9 surveyed counties, 90% of the acreage is not coming under review. This indicates that something is wrong. The following things will be changed by the bill: size of the parcel will be increased to 40 acres, or less; any new subdivision within a platted subdivision must be re-reviewed and approved; it would eliminate the exemptions--sale to any member of the family and the occasional sale provision. She said she believed these exemptions are loopholes, as 70% of the subdivisions studied of less than 20 acres escaped review. Shopping centers that are not under other zoning provisions would need to be reviewed and have local government approval. Park land will be directly related to density, and the measure would be effective on passage. She said a change to help developers would be the changing of the park provision and the requirement that action on a review must be taken in 30 days.

JIM RICHARDS, Department of Community Affairs, spoke next in support. He said they felt it was necessary to have a well done survey of the land divisions taking place in Montana and they had studied nine counties. He passed around copies of the study "Land Division in Montana." He said they were astonished to find that 90% of the land divided was not reviewed; 70% of land less than 20 acres was not reviewed. He went through the four principal amendments and discussed them.

DEAN ZINNECKER, Montana Association of Counties, spoke next in support. He said if the loopholes were closed, it would solve many of the problems that exist.

BOB KIESLING, Environmental Information Center, spoke next in support. A copy of his written testimony is Exhibit 7.

PAUL BOLTON, Montana Association of Planners, urged the committee to support House Bill 543.

DARLENE GROVE, League of Women Voters of Montana, spoke in support and a copy of her testimony is Exhibit 8.

CLIFF CHRISTIAN, Montana Association of Realtors, was the first opponent speaker. He said they submit to the committee that the occasional sale and the sale to the immediate family are necessary. He said most of the people who do this are individuals who do not have expertise in the law. He said the Department of Health can look over all sales to see if they meet sanitary and health standards. He said, if there is abuse, let's work within the present law.

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EVERETT SNORTLAND, Montana Farm Bureau and Montana Stockgrowers, spoke in opposition. He said they do not favor this kind of land use language. He said a farmer at times needs the occasional sale exemption to make ends meet, in estate planning or in raising the down payment to buy more land.

ELDEN L. INABNIT, Representing self, spoke in opposition. A copy of his testimony is EXHIBIT 9.

CHARLES SWARTZ, representing self, said he was opposed to House Bill 543 in its entirety. He said proposed changes would be very detrimental.

Acting chairman, Representative Harper, requested that further opponents stand and give their names and one brief sentence, due to lack of time, and the committee had one more bill to hear. Representative Bradley requested that her other bill be postponed so the witnesses present would have a chance to speak.

MEL GENZBERGER, Silver Bow County, felt this bill represents overkill. He felt the expeditious review would be good, but that was all.

CHUCK FRICKE, Florence, spoke in opposition. He felt the changes were not needed. That the present laws were working and should be given a good chance. He said people fear the government and what is happening to their property rights.

JOHN N. JEPSON, Jepson Realty, Townsend, spoke in opposition. He said Broadwater County had been declining in population for years but this was not true now. He said the language in the bill was too restrictive and doesn't take in to consideration that the public is creating a demand for a home in the country--not realtors or subdividers. He said what is being done with this bill is simply raising the price of the land.

JIM BURKE, Montana Association of Realtors, spoke next in opposition. He said people are coming into Montana whether we like it or not, and they are going to need places to build a home. He said we should be loosening instead of tightening the rules.

GERALD DITTO, representing self, expressed his opposition.

Also signing testimony opposing were:

Paul Erickson, Helena, EXHIBIT 10.

Paul Keller, Helena

H. T. O'Reilly, Helena

Denis Applebury, Victor, EXHIBIT 11.

R. A. Ainsworth, Missoula, EXHIBIT 12.

William T. Bernasch, Helena.

A letter supporting was received from JEANNE MUELLER, Missoula, EXHIBIT 13.

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Representative Bradley in closing said she was an "in-state do gooder" and not from out of state, as accused by one opponent. She said the Consumer Affairs study was a study of fact and of minute details of nine counties and, if in error, it was on the conservative side. She said there wasn't one person in her county that doesn't think it a tragedy to see prime agriculture land being subdivided.

Meeting adjourned at 10:00 p.m.

Chairman (Acting) Harper said these bills would go into a sub-committee composed of Kessler, Chairman, Metcalf, Frates, Burnett and Ernst.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman

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