

March 4, 1977

The Natural Resources Committee convened in Room 437, at 8:00 a.m., on March 4, 1977, with Chairman Sheldon presiding and all members present except Representative Huennekens who was excused.

Chairman Sheldon opened the meeting to a hearing on Senate Bill 110.

#### SENATE BILL 110

SENATOR DOVER, District No. 24, as the chief sponsor of this bill, said present legislation stemming from House Bill 666 is a haphazard approach to subdividing and adds considerably to the costs. He said the criteria established in that bill is negative and contrary to the needs of people and their towns; and that it is vague so it leaves planning boards open to law suits. He said in regard to the expression of public opinion--it is always those who don't want things changed that voice their opinion and, too few people turn out to determine what the real public interest is. In regard to agriculture--the increased acreage has used up more agricultural land. He felt it would be better to develop higher density areas which would use less land. He said it would have an effect on local services as most subdivisions aren't self supporting. He felt legislation like House Bill 666 hurt the poor and helped the wealthy as only they could afford the land. He felt the state was regulating the people of Montana to death and this legislation (House Bill 666) was doing the opposite of what it was intended to do. He said we don't need House Bill 666, but we do need Senate Bill 110. A copy of his testimony is EXHIBIT 1.

CLIFF CHRISTIANS, Montana Association of Realtors, said the present system's decisions are swayed at times by favoritism. He presented a letter from Mr. Berger of Billings dealing with the proposed Cougar Park Subdivision in Bozeman which was turned down by their planning board. This is EXHIBIT 2 of the minutes. He supported the bill.

A. REED MARBUT, Missoula, representing self, said he was a land holder from Missoula and developer with his family in Grantland Subdivision; which subdivision, he said, has become virtually impossible to continue to develop because of present subdivision laws. He said residential lots have become very scarce in Missoula county; young families are forced to live in mobile homes or rent.

FRED BELL, representing self, a developer from the Bozeman area, questioned section 4 of House Bill 666 in which it says a subdivision must be disproved if found to be not in the public interest. He said it was an abridgement of personal property rights to deny a development just because it lacked popularity. He said agricultural land will remain that only as long as it can be profitably ranched and to deny a subdivision for that reason was not as it should be.

PETER JACKSON, WETA, supported the bill as a way to eradicate some red tape and get some common sense into the situation.

TOM WINSOR, Montana Chamber of Commerce, said this bill was a step in the right direction. He mentioned the Helena Valley as being an example of improper development. He said there is a problem but the way to solve it is not to take away people's property rights.

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As there were no more proponents, Chairman Sheldon opened the meeting to the opponents.

REPRESENTATIVE JOHN VINCENT, District No. 78, said as last session's sponsor of House Bill 666, he wished to testify briefly. He said the proponents gave the impression there wasn't any building going on and he said this wasn't true. Increased costs are from the market place and the interest rate--the review process increases the costs only about 1%. He said House Bill 666 was so designed to let the local people do the work, if Senate Bill 110 passes the review function would be back at the state level. He mentioned the Cougar Park proposed subdivision in Bozeman. He said this was decided by the county commissioners--who are three local people who have to go out and get elected. He said they decided on the basis of the criteria in House Bill 666 that Cougar Park was not in the best interest of the people of the county. He said all criteria is considered--subdivisions are not denied just on the basis of one. He said the assumption that all public opinion would be against a subdivision is nonsense. He said he liked the idea of local people coming in and saying what they think. He said people in the surrounding areas do carry an extra burden of taxation for the services in new subdivisions.

ELLEN GARRITY, AAUW, said they opposed the bill as it would remove House Bill 666's eight criteria. She felt the county commissioners should consider these criteria before making a decision on a subdivision. She felt they should have all the facts on the negative and positive impacts there will be on a county. She said they urge a "do not pass" on Senate Bill 110.

JOHN CROWLEY, Missoula, representing self, said he was on the planning board and of the 12 subdivisions they have reviewed 11 have been approved. Mr. Marbut's was the one disapproved because (1) high ground water in the area threatened an adjoining public well system and (2) the school was crowded and at 100% bonding capacity. He said the criteria are taken together and a development is not refused because of just one. He said House Bill 666 has not been used arbitrarily to deny subdivisions. He said listening to public opinion is essential and they count only the public opinion that addresses one of the criteria. He said House Bill 666 does encourage development in harmony with existing conditions of the entire community. He recommended Senate Bill 110 "do not pass".

DENIS W. VOGT, Lewis & Clark APO Board, said economics rather than subdivision controls dictate shortages. He said they have denied only one major subdivision and there are 1,700 lots processed and ready for development.

JEAN ROBOCKER, member of the Eastside Planning Unit of Kalispell, said she was concerned about her own voice, that passage of this bill could deny her voice in the way of life of her own particular community. She said their area is composed of small tracts and the planning unit has drawn them together in a very cooperative and social manner that is uniquely American. She said they have found written testimony at the planning boards important.

HERB KOENIG, Flathead Conservation District, said they opposed Senate Bill 110 as taking the public opinion out of any decision would be detrimental. He said subdivisions have fragmented livestock farms so some are not productive any more. He felt there was a real threat to prime agricultural land as the urban sprawl consumes more and more. He said public opinion is very important--no longer can we mess up the land and move on.

HENRY L. FIKKER, farmer, and County Planning Board, said their board contains a good cross section of people and represents the whole county, and the position of the board is to give a fair analysis to everyone that comes in with a proposed subdivision. He said he was hearing today of complaints about biased opinion and favoritism -- not true in his county. He said the opportunity to have review is very important so he said they are opposed to Senate Bill 110.

LEX BLOOD, Flathead Conservation District and City Planning Board, said he would like to add his voice to the list of those opposed to Senate Bill 110. He also felt the expression of public opinion was essential and the cost of House Bill 666 was negligible on Flathead County. He said there have been no subdivision denials but there has been upgrading of proposed ones to make them more desirable.

STEPHEN PETRINI, Flathead Area Wide Planning Organization, said review costs have not gone up because of House Bill 666. He said the review costs on a lot in their area costs from \$3.75 to as low as \$.17. He said people are subdividing into larger acreages to escape review of the whole act not just because of House Bill 666. He urged a "do not pass" for Senate Bill 110.

PAUL J. BOLTON, Montana Association of Planners, said he wished to go on record as opposing Senate Bill 110. He said he would like to see somebody substantiate the fact that House Bill 666 is the cause of the rising cost and the inability of many people to own a home. He said the use of House Bill 666 criteria benefits both developer and the local government agency in knowing in advance of public hearings how proposed developments will be assessed.

DAVID ERICKSON, Lake County Planning Staff, spoke next in opposition and a copy of his testimony is EXHIBIT 3 of the minutes.

PAUL BRUNNER, Environmental Real Estate agent from Missoula, spoke next in opposition. A copy of his testimony is EXHIBIT 4.

DON NYE, Beaverhead County, said the decisions for subdivisions must be made by the local government bodies. He said this bill would take away this essential of good planning.

MICHAEL PICHETTE, Montana Democratic Party, said one sentence in the platform commented "...and urge that existing subdivisions statutes not be weakened." And so he opposed Senate Bill 110.

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ROBERT MILLER, Dillon, Beaverhead County-City Planning Board, said they would like to see this bill defeated for, if House Bill 666's criteria is removed, they won't have any tools to work with to control subdividing.

STEVE BROWN, Governor's Office and Department of Health, said he opposed the bill. He said everybody is for local control but the problem here is arbitrary decisions and this bill won't solve that problem. House Bill 666 developed criteria; and, if there are abuses of the law from local government people, they should be called on the carpet in a law suit. He said the Montana Supreme Court solved a conflict by finding the legislation said local government should have primary responsibility outside of the water supply and sewage. He said repeal the criteria and where will we be sitting--he said he doesn't want the Health Department to decide if a subdivision should go.

DARLENE GROVE, League of Women Voters, said they oppose this bill and urge its defeat. Her testimony is EXHIBIT 5.

WES WOODGERD, Fish and Game, opposed the bill and a copy of his testimony is EXHIBIT 6 and part of the minutes.

BOB KIESLING, Environmental Information Center, spoke in opposition. A copy of his testimony is EXHIBIT 7 and part of the minutes.

GAIL STOLTZ, Montana's Farmers Union, presented written testimony opposing Senate Bill 110. This is EXHIBIT 8.

Denator Dover closed. He said only 93% of the subdivided land has been reviewed--why? He said to avoid the very thing we are discussing. He said 200 to 300% increase in lot prices--why? He said because of all the red tape that comes from the laws we made. He said there is a great need of housing today so why aren't we building around the towns--developers are escaping red tape by going out of town. He said we are encircling our towns with acreages so where are we going to for the high density areas. He said let's take out the negative aspect--the criteria in House Bill 666--and put in a positive aspect that will help our towns. He said a developer doesn't know what he has to do and is left up to the whims of the planning board--he never knows where he stands. A copy of his testimony is EXHIBIT 9.

Meeting adjourned at 10:10 a.m.

Respectfully submitted,

  
ARTHUR H. SHELDEN, Chairman