

March 9, 1977

The Natural Resources Committee convened on March 9, 1977, at 8:05 a.m. in room 437 with Chairman Sheldon presiding and all members present except for Reps. Frates, Hirsch, Huennekens and Kessler, who were excused.

Chairman Sheldon opened the meeting to a hearing of the following bills:

SB 224 SENATOR PETE STORY, District 37, said this is one of four bills he is presenting to the committee which will make various changes in the Subdivision and Platting Act. He said his purpose is to make the subdivision act easier to comply with and hopefully thereby to encourage property owners, developers and purchasers to come within the review of the act rather than to avoid the act through the use of the various exceptions. He said the objectives he hopes the package of bills will help achieve are (1) higher residential densities; (2) lower prices for purchasers of house lots; (3) more lots available in less than 20 acre sizes; and therefore (4) less urban sprawl and agricultural land taken from production. He said he discovered while working with the bills that he was dealing with complex legalisms that were almost too much for this old boy from Emigrant--so he sought trained legal assistance in presenting the bills. Rep. John Scully, he said, will present each bill and explain its workings and effects.

REP. JOHN SCULLY discussed the bill. He said if the proposed subdivision falls within an area that is part of a master plan and the plan for that area is that type of subdivision, any further environmental assessment need not be done. The benefits to be derived from this bill are: (1) decreased costs to the public; (2) less time consumption in the planning process; (3) less expense to cities and counties; (4) more predictability in planning; and (5) communities will be encouraged to carry out the master planning concept.

JOE GERBASE, Montana Real Estate Association, spoke in support. He said this was a specific approach to solve a problem--to require another assessment would be duplicatory. He said not all areas are able to afford to have a master plan--he said his home city, Billings, has a very comprehensive one. He said land prices have gone way up and the reason is because of the planning process. He said this bill won't cut all costs but will cut some.

PETER JACKSON, WETA, said his organization basically wants to achieve a balance between environmental good and economic growth. He said anything that can speed up the process and get the job done is great. He said inflated costs strike the credibility of the whole thing. He said his organization is in support of this bill.

CHARLES FRICKE, Florence, representing self, said in practice master planning and comprehensive plans are being used as a tool to zone areas. He said the two type plans have had public input as to what they want so why duplicate. He supported the bill.

ED ANDERSON, Holliday Realty, although representing self, spoke next in support. He mentioned how the price of land has increased in the Great Falls area--reason being the overregulation of its transferral. He said the price used to be \$150 an acre and now the lowest price is \$2000 an acre. He said the average priced good lot in the city is \$9000. He felt that something must be done to correct the supply and demand.

ROD WILSON, Legislative Coordinator, Billings Chamber of Commerce, spoke

next in support and a copy of his testimony is exhibit 1.

ROBERT MILLER, Montana Homebuilders Association, spoke next in support. He said this bill would do away with what is a duplication of effort and the time lag caused could be costly. He said in five years an average house is expected to cost \$78,000. He felt this bill would serve the best interests of the public.

FRED BELL, Stevensville, representing self, signed as supporting, exhibit 2.

BOB KIESLING, EIC, signed as opposing and a copy of his testimony is exhibit 3.

During questions Rep. Hurwitz asked if the terrible increase in price was the result of the comprehensive planning. Rep. Scully said not at all--lots of reasons for land prices to be going up. There is more demand than supply--people coming from the East where they are used to higher land costs and are willing to pay the higher prices.

Rep. Bengtson asked if there would be any assurance that prices would go down. Mr. Wilson responded that doing away with the duplication of effort could save 30 to 60 days and this would be a savings that would be passed on. Senator Story said he would like to speak on the effect planning has on cost. He said they are in favor of planning. He said they are not trying to do anything that would destroy the platting act. He said only to the extent that the platting act has provisions in it that are unnecessarily onerous, which provisions he said have two distinct effects--delay in planning which ups the price a bit; and the selling of 20 acre plots so that only one house is on the 20 acres when it could have been many more. This reduces the amount of land, and so the price goes up.

Rep. Hurwitz asked if he was making an argument against the 20 acre plot. Sen. Story said that's true. He said we want people to have homes and to have agriculture land stay as agriculture land. He said we want orderly development with good services for the homes. But he said this is an area not covered by the bill.

Rep. Harper questioned how carefully the master planning was done. Sen. Story said only about four areas would be covered by the bill--Billings, Bozeman, Great Falls and maybe Helena--for it they don't have a master plan the bill doesn't apply. Jim Richards of the DCA also spoke to this. He said 70 cities have some form of master plan but they wouldn't all be covered as zoning and a capital improvements program are prerequisites.

SB 225 SENATOR STORY said this bill does nothing more than make honest men and women out of all of us in this room. Under current law, it is a crime to make contracts or offer on land which has not been finally platted. This bill allows us and our fellow Montanans to make such contracts and offers and still affords the necessary protection to Mr. Public. He passed out copies of a suggested amendment to protect the purchaser. This is exhibit 4.

REP. JOHN SCULLY, District 77, said the law as written went beyond the purpose for which it was created--which was to prevent fraud. He said

any moneys received must be escrowed and he felt this bill would help prevent fraud abuses of the subdivision law.

JOE GERBASE, Montana Association of Realtors, said he has had to break the law this bill applies to as it is the only way that many will sell. He supported the bill.

PETE JACKSON, WETA, supported the bill.

CHARLES FRICKE, Florence, representing self, said all moneys from all sellers need to go into a trust account or escrow account to protect the buyers.

PAUL BRUNNER spoke in support. He said he was enthused with the bill as one can use small tracts to test the market to see if a larger subdivision would go.

ROBERT MILLER, Montana Homebuilder's Association, spoke in support.

ROD WILSON, Billings Chamber of Commerce, spoke in support and a copy of his testimony is exhibit 5.

FRED BELL, Stevensville, representing self, signed as supporting.

JIM RICHARDS, DCA, signed as an amender. He said he could foresee some real problems even with the amendment. One of the problems is pressure on the planning board from people already building. He said it had a positive purpose but would need a little tightening up and he would be glad to help.

DENIS W. VOGT, Lewis and Clark APO, signed as an amender and opponent. He suggested the proposed bill be amended to allow transfer of property only after approval by the local government.

PAUL BOLTON, Montana Association of Planners, signed as an opponent. A copy of his testimony is exhibit 6.

BOB KIESLING, EIC, signed as opposing and a copy of his testimony is exhibit 7.

Sen. Story said this applies only to a written contract--the purchasers of the plats would be on notice that the preliminary assessment has not been done yet--all money given would be in escrow. He encouraged the subcommittee to work out any technical problems.

During questions it was mentioned that contracts for deed need not be recorded.

SBs 226 and 227 REP. JOHN SCULLY said SB 226 deals with sanitary restrictions. If a subdivision is within a city with no question of water and sewer service being ample, it will be unnecessary to go through the Department of Health to be released. He presented a list of amendments which he said had been drawn up with Steve Brown's assistance, exhibit 8, and the Montana Association of Realtors.

Rep. Scully said that Senate Bill 227 requires local governing bodies to specify all conditions at the preliminary plat state, and once those conditions have been met the plat would be adopted. He said Mr. Bolton of their community is very straight forward with the requirements needed. He said for some planners this may mean a little more consideration on the preliminary plat.

ED CASNE, Department of Health, said the amendments on SB 226, exhibit 8, no longer reflect the Department of Health's stand and he respectively requested they be withdrawn.

JOE GERBASE, Montana Association of Realtors, said SB 226 would be eliminating unnecessary duplication and he supported it. He also supported SB 227.

PAUL BRUNNER, representing self, told of an unhappy experience he had with the Great Falls planning board. He felt some planning boards needed laws to bring them into more responsible actions.

DENNIS VOGT, Lewis and Clark APO, said of SB 226 it was a bit redundant to require a state inspection within the city limits when the sewer and water were already there. However, he felt private systems should be excluded as many times they are not constructed to accommodate expansion of use and therefore should be reviewed by the state Health Department--as an example, he mentioned Treasure State Acres in the Helena Valley, which needed a new lagoon when it expanded.

ROD WILSON, Billings Chamber of Commerce, spoke in support, and a copy of his testimony is exhibit 9.

FRED BELL, representing self, said this bill (SB 227) would prevent special interest groups from pressuring a planning board into revisions of the preliminary plat, thereby causing prolonged and unnecessary diversion as a means to stop the proposal.

BOB KIESLING, EIC, said they had no quarrel with SB 227 but he said they opposed SB 226 until the confusion with the amendments could be worked out.

Senator Story said in closing that they have worked with the Department of Health and will continue to do so. He said they want to receive notification even if they are not checking sanitary conditions. He said this is reasonable as a subdivision may overload a system. He said they also might fear being underfunded if they are no longer getting their review money. He wished to be advised when the subcommittee would meet.

CHARLES FRIKKE signed as supporting SB 227.

CLIFF CHRISTIAN and SANDY MCPHERSON, Montana Association of Realtors, signed as supporting all four bills.

Chairman Sheldon said the Flathead Planning people were unable to be present because their plane was grounded but would send their statements.

Chairman Sheldon appointed the following subcommittee to work on the subdivision bills: Reps. Harper, Chairman; Hirsch; Hurwitz; Metcalf; Ernst.

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Chairman Sheldon opened the meeting to a consideration of the following bill:

SENATE BILL 110

Rep. Metcalf said he did not feel SB 110 tries to solve problems as the bills we heard today. He moved the bill be NOT CONCURRED IN.

Question was called and a roll call vote taken--ten voted yes and 7 no. Motion carried. Voting no were Reps. Nathe, Hurwitz, Ernst, Davis, Curtiss, Cox, Burnett.

Meeting adjourned at 10:10 a.m.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman

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A "Directory of Land Use Laws" for the state of Montana is exhibit 10 of the minutes. Copies of this were distributed by Cliff Christians, MT Real Estate Association, to the committee members.