

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 4, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on February 4, 1977 at 9:37 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present except Senator Lockrem, who was excused.

The following visitors were present: Steve Brown, Department of Health; Ed Casne, Department of Health; Ben Wake, Department of Health; Tom Ellerhoff, Department of Health; Jerry Ditto; Glen Drake, League of Cities and Towns; Steve Turkiewicz, Montana Association of Counties; Mike Foster, Intern; Kay McPherson, Montana Association of Realtors; Milt Dykstra, City of Helena; Charles Swart, 79 Registered Land Surveyors; Sandy McPherson, Montana Association of Realtors; Cliff Christian; Joe Gerbase, Montana Association of Realtors.

CONSIDERATION OF SENATE BILL 226: Senator Story, Sponsor of the bill gave a brief resume. Joe Gerbase, Lobbyist, Montana Association of Realtors stated that Senate Bill 226 would streamline the subdivision regulation process. Mr. Gerbase submitted proposed amendments to Senate Bill 226 (attached). He stated time is a primary factor with increased costs and inflation. Senate Bill 226 would cut down requirements with the Department of Health and Environmental Sciences as the controls are in the law. Steve Brown, Chief Counsel for the Department of Health and Environmental Sciences, supports Senate Bill 226 as the Health Department wants to streamline the process. Mr. Brown discussed the possibility of amending to include provision in Senate Bill 310 Senate Bill 226. Sandy McPherson, Montana Realtors Association, testified in favor of Senate Bill 226. Charles Swart, 79 Registered Land Surveyors, testified in favor of Senate Bill 226 (attached). Bob Kiesley, Environmental Information Center, would like to work on amendments.

CONSIDERATION OF SENATE BILL 227: Senator Story, Sponsor of Senate Bill 227 asked Joe Gerbase, Montana Realtors Association, to present Senate Bill 227. Mr. Gerbase gave a resume of Senate Bill 227. Cliff Christian, Montana Realtors Association, and Charles Swart, 79 Registered Land Surveyors, testified in support of Senate Bill 227.

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Senator Watt moved Senate Bill 227 be give a "Do Pass" recommendation. Senator Peterson seconded the motion. Motion carried unanimously.

Senator Story presented amendments to Senate Bill 224 (attached). Senator Peterson moved to adopt the amendments to Senate Bill 224. Senator Dunkle seconded the motion. Motion carried unanimously. Senator Thomas moved Senate Bill 224 be give "And As So Amended, Do Pass" recommendation. Senator Peterson seconded the motion. Motion carried unanimously.

Senator Dunkle moved to adopt amendments (attached) to Senate Bill 225. Senator Thiessen seconded the motion. Motion carried unanimously. Senator Dunkle moved Senate Bill 225 be give an "And As So Amended, Do Pass" recommendation. Senator Thomas seconded the motion. Motion carried unanimously.

ADJOURN: The meeting adjourned at 10:30 with the next meeting to be Monday, February 7, 1977 to hear Senate Bill 198 and Senate Bill 267.


Senator George McCallum, Chairman

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ROLL CALL

LOCAL GOVERNMENT COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 1-4-77

[illegible]

SENATE LOCAL GOVERNMENT COMMITTEE

VISITORS' REGISTER

DATE 1-2-77

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: CHARLES SWART DATE: 4 FEB 1977

ADDRESS: 324 S. GRAND AVE, BOZEMAN

PHONE: 587-3280

REPRESENTING WHOM? A GROUP OF 79 REG. LAND SURVEYORS

APPEARING ON WHICH PROPOSAL: S.B. # 226 & S.B. # 227

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: PLEASE SEE ATTACHED.

In support of S.B. #226, before the Local Government Committee of the Senate

Of the items of concern which have been sent to me by the 79 surveyors whom I represent, of top priority is the return of subdivision approval to the local level.

The local government group which would have authority under paragraph 2c of the proposed bill generally has a professional engineer on the staff or has retained a consulting firm; quite often the governing body has both. This expertise, combined with the ready access to all of the records dealing with the available and proposed water and sewer facilities, renders the local government the logical agency to deal effectively and rapidly with the decision involving the addition of new demands upon the facilities.

The surveyor is not involved in the design of the water and sewer facilities, but often suffers in his related work due to the lengthy delays which he now experiences more often than not in the unwieldy state review process.

In support of Senate Bill #227, before the Local Government Committee of the Senate

This bill deals with a item which I don't believe anyone of us would have felt would be a problem; I think most of us would feel that a final approval after a preliminary approval would be addressed only to the items which were questioned initially. We find that this is not the case, and on a final approval points will be raised which were not considered at all on the preliminary plat. The time in preparing final prints is considerable, and the materials for the maps are very dear; these costs are small, however, compared to the delays incurred for the revision of items which should have been noted in the preliminary review, if at all.

PROPOSED AMENDMENTS TO SENATE BILL 226

Presented by the Montana Association of Realtors

SB 226 is hereby amended to read as follows:

On Page 1, line 1⁸, after "subdivision" insert "erect any facility for the supply of water or disposal of sewage or solid waste,"

On Page 2, line 17, after "subdivision" insert "erect any facility for the supply of water or disposal of sewage or solid waste,"

On Page 2, after line 21, insert a new subsection as follows:

"(d) When a subdivision is exempt from the review of the department by subsection (2)(a) of this section, the local governing body must, within 10 days after receiving an application under the subdivision and platting act, send notice to the department that a subdivision has been submitted for approval. The notice shall include the following information:

- (i) the name and address of the applicant;
 - (ii) a copy of the preliminary plat or a final plat where a preliminary plat is not necessary;
 - (iii) the number of proposed parcels in the subdivision;
 - (iv) any applicable zoning ordinances in effect;
 - (v) how construction of the sewage disposal and water supply systems or extensions will be financed;
 - (vi) whether the subdivision conforms to the master plan adopted for the area; and
 - (vii) the relative location of the subdivision to the city or town.
- (e) The exemptions provided for in this section shall not relieve any person of the duty to comply with the requirements of the Public Water Supply Act, title 69, chapter 49."

On Page 3, line 24, immediately following "(a)", insert the following:

"At any time after the developer has submitted an application under the Subdivision and Platting Act,"

On Page 4, line 24, delete "90", and insert "120".

Amend S.B. 224 by deleting all material beginning on Page 4, Line 20 and ending on Page 5, Line 3. Insert therein, the following:

(8) Subdivisions totally within a master planning area adopted pursuant to section 11-3801 through 11-3856 are deemed to be in the public interest and are exempt from the following requirements of this act:

- (a) The requirement of an environmental assessment; and
- (b) The requirement of a public hearing.

Amend S.B. 225 by deleting all material beginning on Page 2, Line 9 and ending on Page 2, Line 18. Insert the following:

(3) Every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner or offered for sale or transfer. If illegal transfers or offers of any manner are made, the county attorney shall commence action to enjoin further sales, transfers, or offers of sale or transfer and compel compliance with all the provisions of this act. The cost of such action shall be imposed against the person transferring or offering to transfer the property.

(4) Contracts or offers for sale of land prior to the filing of a final subdivision plat of record with the county clerk and recorder shall be legal and are exempt from the provisions of paragraph (3), if the contract or offer for sale is in writing and contains the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted and until a final plat has been filed with the county clerk and recorder, title cannot be transferred in any manner."

Amend S.B. 225 by deleting on Page 3, Lines 2 and 3 and substituting therein the following:

months, or by both fine and imprisonment. Each sale, lease or transfer, or offer for sale, lease, or transfer

Uniform Commercial Code

STANDING COMMITTEE REPORT

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MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 227

Respectfully report as follows: That Senate Bill No. 227

DO PASS

P.A.

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6. Amend page 2, section 1, lines 14 and 15.

Following: "transfers"

Insert: ", or offers of sale or transfer"

7. Amend page 2, section 1, lines 17 and 18.

Following: "transferring"

Insert: "or offering to transfer"

8. Amend page 2, section 1.

Following: line 18

Insert: "(4) Contracts or offers for sale of land prior to the filing of a final subdivision plat of record with the county clerk and recorder shall be legal and are exempt from the provisions of subsection (3), if the contract or offer for sale is in writing and contains the following language conspicuously set out therein: 'The real property which is the subject hereof has not been finally platted and until a final plat has been filed with the county clerk and recorder, title cannot be transferred in any manner.'"

9. Amend page 3, section 2, line 2.

Following: "Each"

Insert: "sale,"

10. Amend page 3, section 2, line 3.

Following: "transfer"

Strike: "of title,"

Insert: "or offer for sale, lease, or transfer"

AND AS SO AMENDED, DO PASS

Senator George McCallum, Chairman

STANDING COMMITTEE REPORT

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MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 224

Respectfully report as follows: That Senate Bill No. 224,

introduced bill, be amended as follows:

1. Amend page 4, section 2, lines 21 through 3 on page 5.

Following: "11-3856"

Strike: "are exempt from the following requirements of this act:

- (a) the requirement of an environmental assessment;
- (b) the requirement of submission of a preliminary plat;
- (c) the requirement of a public hearing; and
- (d) the requirement that the subdivision be in the public interests.

Insert: "wherein zoning regulations pursuant to 11-2701 through 11-2709 or 16-4701 and a capital improvement program pursuant to 11-3831 have been adopted are designed to be in the public interest and exempt from the requirement of an environmental assessment."

~~DO PASS~~

AND AS SO AMENDED, DO PASS

STANDING COMMITTEE REPORT

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MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 225

Respectfully report as follows: That Senate Bill No. 225
introduced bill, be amended as follows:

1. Amend page 2, section 1, line 11.

Following: "be"

Insert: "sold or"

2. Amend page 2, section 1, line 12;

Following: line 11

Insert: "or offered for sale or transfer."

3. Amend page 2, section 1, line 12.

Following: "transfers"

Insert: "or"

4. Amend page 2, section 1, line 13.

Following: line 12

Insert: "offers of any manner"

5. Amend page 2, section 1, line 14.

Following: "further"

~~XXXXXX~~

Insert: "sales,"


Chairman.