

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
February 7, 1981

The Local Government Committee met Saturday, February 7, 1981, in room 103, at 12:30 p.m. Chairman Bertelsen called the meeting to order. All committee members were present with the exception of Rep. Hurwitz, who was excused due to illness and Rep. Waldron, who was absent. Lee Heiman, staff researcher, was also present.

CHAIRMAN BERTSELSEN introduced Rep. Jack Moore, sponsor of HB 192.

HOUSE BILL 192:

REP. JACK MOORE, sponsor, introduced the bill. He said this bill was originally passed in the 1975 session without regard to a number of items that should be considered by local government on subdivisions. The bill was studied very thoroughly by the Interim Committee for the 1977 and 1979 sessions. That subcommittee came up with new criteria which is much more understandable. In essence, it does the same thing. However, it was overturned on the House floor on an Adverse Committee Report. It passed second reading on the 45th legislative day, but apparently a couple of people went to sleep on the third reading and pushed the wrong button.

I do have two recommended amendments for HB 192. First, on lines 23 and 24 of page 1, delete the words "at least," so that section will read "to determine whether the proposed subdivision would be in the public interest, the governing body shall issue a written finding that considers at least the following:"

The second amendment is on page 3, line 2 after the word "Wildlife," insert the word "agriculture,". This bill crosses out a very vague wording as you will see at the bottom of page 1, and on the top of page 2, "a thru h," and it substitutes under a new (a), which says they will consider "the compatibility of the subdivision with adopted community goals, policies, or plans." Rep. Moore read the balance of the bill. All this bill does is provide better and more defined guidance to those areas who have to act on subdivisions.

CHAIRMAN BERTELSEN said he'd like to allow 20 minutes per side for proponents and opponents, but we may have to alter that limit.

PROPOSERS FOR HOUSE BILL 192.

JIM RICHARD, with the Department of Community Affairs, said the Interim Committee requested him to participate in drafting language which eventually was agreed to. The intent of

of the bill was to take the eight general, vague criteria and convert them to five more specific criteria which relate specifically to public health, safety and welfare and to fiscal concerns which are probably the key elements needed when reviewing subdivisions. The criteria would assist in a more uniform application of the public interest criteria. The guidance and direction that this gives would assist them as well as the subdividers. One of the problems I've encountered around the state, regardless of how well designed a subdivision may be, is the subdivider never knows whether there will be a tremendous amount of popularity at a public hearing, or whether there will be an effort to show there is no need for the subdivision. This is the reason for trying to give both subdividers and local officials more direction on the interpretation.

One of the controversial things in this bill is on page 1, lines 17, 18 and 19, which are deleted. The effort is to put the whole concept into a neutral perspective, not to give it a negative perspective as the current statute does, nor to reverse it by saying that they have to approve it if they find it to be in the public interest.

CLIFF CHRISTIAN represented the Montana Association of Realtors. I will not speak to the bill per se, which has been covered by Mr. Richard. He read a quote from page 49 of the committee report. This is not an attempt to gut the subdivision guideline, so we, as developers, by the specific language, think we can all live by it and we support the bill.

JEAN WILCOX, from Missoula, said she is the deputy county attorney in Missoula County. One of her duties is to enforce the subdivision law. She has an interest in seeing that the law is clarified and is workable. She said she had a hard time deciding whether she was an opponent or a proponent, but basically, she believes she is a proponent, with certain amendments. She felt a few points had not been covered. Considering the basic needs of a subdivision, it is extremely important. One reason is because the current subdivision statute allows local regulations which require security for construction of improvements in lieu of requiring completion of the improvement before filing the final plan. One of the most common means of financing improvements is through SIDs. The local government pledges its revenue as a source of security for the bonding companies. The bonding company sells bonds to finance the project. If the subdivision does not sell, the subdivider or the owner of the land is stuck with these assessments. If the governing body cannot collect the assessments, the taxpayer is the one who has to pay. There

is a criteria which I believe may direct this special aspect of considering the basis of need, and that is subsection "c". Ms. Wilcox passed around two amendments which she thought should be included in HB 192. She also said REP. MOORE's bill deletes consideration of the effect on agriculture. This has been a great source of difficulty for governing bodies in deciding on subdivisions. But we must recognize there are some people in this State who wish to continue in the agricultural field. Is it fair to them to plan a subdivision development next to their agricultural enterprise which is more of a way of life than the economic enterprise and force them into the impact of the subdivision? I am very much in favor of this legislation if the amendments are included.

TOM HARRISON of Helena said he represents the Montana Homebuilders Association. He said they endorse HB 192. I'll try not to duplicate what has been said. It is our feeling that the movement from the subjective standards that are in the legislation, to a more objective set of standards that you as a person can follow, will enable you to evaluate what you have to do. If you are tussled in court or somewhere else, you have to have reexamined either administratively or judicially, and you need a standard you can point your finger to and say, this is either right or it isn't. If you can stay away from such standards, you stay away from the subjectivity and actually deal with something you can decide.

JACK SCHMIDT said he is Chairman of the Lewis and Clark Areawide Planning Organization Board, which is the chief policy making board for planning activities in Lewis and Clark County and the City of Helena. I originally was going to testify as an opponent, but with the proposed change which includes the effect on agriculture, I am going to testify in favor of the bill with a couple of suggested additional changes in the amendments. We have both a city and a county planning board. We feel the need for providing additional clarity in the definition to the public interest criteria. We feel that most of the issues addressed in the amendments are an excellent way to achieve that clarity. I want to strongly urge that the inclusion of the evaluation of effects on agriculture be included in this amendment. (See written testimony attached to the minutes.)

DAN MIZNER, Executive Secretary for the League of Cities and Towns, said they support House Bill 192.

SPONSOR REP. MOORE said he'd like to comment on the remarks of Jean Wilcox, Deputy County Attorney of Missoula County. He said the amendment which she proposed, "substantive public comment on the subdivision in the context of these considerations" is an excellent addition to the bill and he hopes the committee will consider it.

OPPONENTS TO HOUSE BILL 192.

FRANCIS GRAHAM of the Flathead Conservation District, said their responsibility is to protect land from erosion, protect the quality of the water and protect productive agricultural land. (The balance of his written testimony is attached to and made a part of these minutes.)

HERB KOENIG, also represented the Flathead Conservation District, the Flathead County Planning Board and himself as a farmer. He said his conservation district strongly supports HB 192 in its present form. (See his written testimony attached to and made a part of these minutes.)

TONIA BLOOM represented the League of Women Voters from Hamilton, Montana. She said they wanted to express their opposition to House Bill 192. (See attached testimony made a part of these minutes and attached thereto.)

HENRY OLDENBURG represented himself, even though he is a Flathead County Commissioner. (His written testimony is attached to and made a part of these minutes.) He urged that HB 192 remain as it is now.

PAUL STANTON of Hamilton, Montana spoke in behalf of himself. He strongly recommends rejection of House Bill 192. He wants the bill to remain in its present form. (His written testimony asking that HB 192 be rejected is attached to and made a part of these minutes.)

GARY LOCKE said he wants to present a statement by the Bitterroot Citizens for Sensible Growth opposing House Bill 192 in its present form. He requested that the committee consider an amendment that would leave the existing section on page 1 the same. He also would like the Missoula amendment for public opinion to include the specific criteria on lines 8 and 9, page 2 and thereon. (His written testimony is attached to and made a part of these minutes.)

MIKE STEPHEN, represented the Association of Counties. He commented that while there are some inconsistencies in the present system, they are having trouble with deleting "at least". For completeness, I think it renders local government the ability to pursue many avenues. We believe the local government should have everything available and many avenues available to assess the situation, and not be restricted to considering just these items. He also read a letter from the Missoula County Board of Commissioners expressing their opinion that the bill eliminate three criteria for passing judgment on subdivisions. Namely, "expressed public opinion, effects on agriculture and the basis of need." They feel these are crucial items and should be included, if not expanded. (A letter is attached to and made a

part of these minutes.)

PEGGY MUNOZ from Hamilton, Montana, said she was speaking as a private citizen. She said her opening statements were repetitious, but wanted to add that the eight public interest criteria read at the public hearing for each minor and major subdivision being reviewed by the planning board or the plat committee are necessary. Often they form an important basis for the group's evaluation of the development and should remain in the bill. (Her written testimony is attached to and made a part of these minutes, as well as Findings of Fact, Commercial Minor Subdivisions, and Steve Petersen Tracts.) The group asked that HOUSE BILL 192 DO NOT PASS.

CHRIS CLANCY from Livingston, said he agrees with the gentleman on "at least" and it should be left in the bill.

DONNA GRAY read written testimony which she submitted, and which is attached to and made a part of these minutes. She feels this bill leaves nothing but political favoritism as a basis for decision, and hopes it (HB 192) does not pass.

JOAN BERG, from Kalispell, represented a group called Citizens for Orderly Development. We are especially concerned, being from northwestern Montana, because there are representatives from our area on this committee. We wanted you to be aware that there are some deep problems which we feel need to be addressed in this legislative session. We are experiencing a real land boom in our area. In the last seven months there have been 3,000 certificates of survey filed in the County Clerk and Records office. A certificate of survey must be filed whenever there is an area of land split. 87% of these involve a land split. These are the lands which are not coming under review as only about 20% of the land splits are coming under review. I am against the removal of the public criteria need for agriculture and for expressed public opinion. We're hoping you'll retain what little democratic action we have left in controlling future land planning.

QUESTIONS FROM COMMITTEE MEMBERS:

REP. MCBRIDE asked REP. MOORE why on lines 11 and 12 you have exempted subdivisions eligible for summary review.

REP. MOORE said that was left in because they were put in two years ago by the Interim Study Committee.

REP. KESSLER asked if REP. VINCENT would make a brief comment on HB 192.

REP. JOHN VINCENT said he doesn't know the substance of the amendments that have been proposed today. The word "substantive" would be open to consideration, but I don't know exactly what it means. I think they already have the authority, so I would question the need for insertion of that language. The need provisions and the expressed public opinion provisions have always been the heart of this act, and the ones most subject to difficulty since the legislation was initially passed in 1975. I think that the opportunity for the public to express their opinion on both sides of the issue is very important and I wouldn't want to see that denied in any way. In regard to need, I think that is important, but I don't think it is as important as expressed public opinion. I am pleased that "agriculture" was inserted in the bill. I hope the committee will consider the bill carefully. It has been on the books for some time. We all know a great deal of the body of subdivision law for a variety of reasons has been circumvented, and in some cases hasn't proven effective. But before we take any measures such as this, I would suggest that an even more thorough review of all subdivision statutes would be appropriate.

REP. KITSELMAN asked Mr. Oldenburg to address his question. You mentioned you had problems on page 2, line 8 with subsection (a), "the compatibility of the subdivision with adopted community goals, policies, or plans." I want to preface the fact that I have served seven years on the City-County Planning Board and have spent a great deal of time developing community goals and objectives. Could you explain a little bit more why you object to that particular phraseology.

MR. OLDENBURG said it is inconcise and is coming from two different sides. One side says we want rural agricultural zoning; the other side says we want wide open development. So we find there is a real problem and the potential of litigation is extreme.

REP. AZZARA for Rep. Moore: I have a problem with what I've seen to be the cumulative effect of minor subdivisions constituting a major impact on a community. I am wondering why you feel comfortable with the unnecessary criteria you put in the bill for those subdivisions that would go under summary and review. Don't you think there is a real problem for small sub-divisions and that there are multiple problems causing a major impact and there is an argument for major review?

RPE. MOORE: No, I don't. There are other subdivision laws that will protect us.

CHAIRMAN BERTELSEN asked for further questions. There being none, he closed the hearing on HB 192.

HOUSE BILL 179.

HB 179, sponsor, REP. GENE DONALDSON, introduced the bill. He doesn't feel all the problems have been ironed out of this bill. It is a relatively simple bill, but there is some controversy to it. He mentioned some changes made in the bill relative to fee changes, namely on page 1, line 13, and on page 3, line 8, where the figures have been changed from \$25 to \$40 and from \$10 to \$20, respectively, because of inflation. Secondly, we have found a declining number of subdivisions, probably again because of inflation or other factors. As a result, the amount of money available to both the state and county has declined. The state staff has been cut back about one third to compensate for that fund, but their point is that if they are going to continue to offer services, they will have to get an increase in these fees. They considered getting this from the general fund, but I object to that. Rep. Hurwitz also objects to this. Rep. Donaldson said that Ed Casne from the Department of Health will testify in favor of this legislation.

PROPONENTS TO HB 179

ED CASNE said he is chief of the Subdivision Bureau, which is part of the Department of Health. He passed material to explain the program of expenses and income. Mr. Casne said he wanted to tell everyone there are two subdivision acts, and we're the other half of the subdivision program. We are the sanitation subdivision and that is the part which the Department of Health administers. Our division looks at water supplies, sewage treatment, solid waste and the potential environmental impact of subdivisions. We review designs of water, sewer and solid waste. After we complete our review of the designs, we give our assurance to the lot buyers that they will be able to develop the water system, have an adequate way of disposing of their sewage without polluting the ground water or the service water supplies, and they will have a place to haul their garbage.

When we deal with large subdivisions, we have to consider the environmental impact. Occasionally, we get involved by writing environmental statements or preliminary environmental reviews. We must also make sure that the people already in the area will have a sufficient water supply. After our review is finished, we assure the community that will not happen. There will not be any undue impacts on public health. We are proposing the increase in fees because we are in big trouble financially. The program is at a point where we have to sink or swim, and we'll sink without additional fees or additional

funding of some kind. We sincerely hope you will consider passage of HB 179.

TOM BARKER said he works for the Missoula County Health Department, and we support HB 179. The department believes that this program is in the best interests of the residents of both the county and the state. The job of enforcing the regulations is not always an enviable one. This is a good law. It safeguards public health and the water quality of the state. The Missoula County Health Department feels that the people who use this service should pay for the service. We need a good staff to do a good job and a quick job. People are more interested in this than in the fee they pay. I urge you to support this program by passing HB 179.

DARRELL FURAN, representing the City-County Health Department of Great Falls, was the next proponent for HB 179. He agreed with what Tom Burger just said, but had a couple more points he'd like to emphasize. I have dealt with Ed Casne's bureau for several years and find them extremely confident, well organized and responsive to our needs. If that level of service were less than it is now, we would be doing a disservice to the subdivision developer. From the local standpoint, we don't get a fee increase. The fees we get now cover about 25% of the total time we spend on subdivisions. We basically do one or two parcel, Ma and Pa type subdivisions. People don't know what is going on. They come to us and we provide ground water verification, fill out forms, soil verification and a number of other things for them. If we don't get a fee increase, we won't be able to do those things for them. The law allows about two months to do a subdivision. If a person comes to our office locally, we can get the review back to them, either approved or with a deficiency statement, within 10 days to two weeks, which is a real time saving to the people. The fee does not concern them. They want to know how fast they can get it subdivided with the least amount of trouble. It has been my experience that the developers in a land transaction of \$10,000 don't care whether the fee is \$25 a lot or \$40 a lot, as long as the review is expedited. I recommend that you go for the fee increase.

MIKE STEPHEN, representing the Association of Counties, said they strongly support this bill. I think it's been demonstrated there is excellent cooperation in the present review system. It is timely and it's a user-oriented fee system. I think in this day and age this increase is necessary. I hope you favorably consider this bill.

DON MULLIN is a sanitarian in Ravalli County. He said the

amount of subdivision that takes place is already overburdening the local government. These subdivision fees are necessary to keep up with the amount of land transfers taking place in our county. I like the idea that the cost of the burden is on the people who are splitting the land and not on the general taxpayer. Without an increase in the fees, I don't believe we can handle the load.

TONIA BLOOM said she would like to support this bill on behalf of the League of Women Voters. (See written testimony attached to and made a part of these minutes.)

REP. KATHLEEN MCBRIDE, representative from District 85, rose at the request of Mr. Bill Burke, who is Silver Bow County Health officer, as he wished to express the support of the Association of the Local Health Departments and Health Officers for HB 179.

DAN MIZNER said the cities support this bill too and we hope it will pass.

TOM COWAN, Flathead County Sanitarian, furnished written testimony in support of HB 179, which is attached to the minutes.

OPPONENTS TO HOUSE BILL 179.

CLIFF CHRISTIAN, with the Montana Association of Realtors, said he guesses he is not talking with the same developers the proponents are talking with. The ones I'm talking to are being hurt by the costs, especially costs in this particular case. Inflation is eating away at all of us. Do you realize that the increased costs amount to 62 1/2%? We object to this. I might mention that they have budgeted a 15% increase for salaries this year. In addition, they have what is known as indirect cost, which is about \$30,000. This \$30,000 doesn't even stay in Mr. Casne's bureau--it is used by the State Department of Health for another agency. We're feeling that as well as the Department of Health. We don't feel that is appropriate.

Mr. Casne says they won't be hiring any more people. Currently, they have 6 employees, but according to the fiscal note, they indicate there will be money for 9 employees. This department, in the Sanitation Subdivision Act, is to protect the sewer and water systems for the safety and public welfare of the people. We are not objecting to that. This bill, when initially written and passed, was funded with general fund money to protect the public welfare. Then Mr. Casne's predecessor came to us and asked if we could support a \$15 per lot fee increase, to which we agreed. The next session it was \$25 and now they are asking for more money. Now they want \$40. We're got to stop somewhere. Next time it'll be

\$100 per lot. My developers don't need that cost. If you're concerned with the public welfare, let's get some general fund money. We have stopped developing in the state of Montana, but when activity does pick up and if you do approve a \$40 lot fee, I propose you're going to have to build a building to keep Mr. Casne's money in or it's going to be spent.

Mr. Casne mentioned to me he wants to open other offices in the state. That's going to require a lot of money for subdivision growth, and I know it's not going to be funded through the developers. It's going to be spent and then the \$40 fee won't be enough. We feel that 15% salary increases and \$30,000 funding for the public health in areas outside of his department is too much. We are more than willing to pay our fair share, but we feel that fair share is \$25 per lot. Thank you.

JERRY DITTO: I'm here to represent the Montana Association of Registered Land Surveyors. They asked me to support the need for increasing the fees to support this action. We realize too that this is not the only service of these officers to the developer, but as some of our people have already testified, who are proponents, they are services to the general public. Those who receive the services should pay for them. We believe that is true. We believe they should not be funded from the general fund. The review of subdivisions that are taking place and the review of the certificates of survey have been done very well. We support the bill as it is written at this time.

TOM HARRISON, representing the Montana Home Builders Association, stated he doesn't think this is a unique problem. You've got an agency that is supported by a fee structure and you've got a fee depression in the industry now. That's going to put the bureaucracy (the administration that runs that) in a box as far as fees. The solution apparently is to leave the administration in place and raise the fees. I think what Mr. Christian said will happen and that you'll be back again. As indicated in the early history of this particular organization, they had excess money to carry them into this deficit. The depression in this industry could not be anticipated, and has created a problem. It seems to be an economic fact of life problem. I'm not convinced that the way to solve the problem is to double or triple the fees. I think the bill has to be modified in some fashion in order to accommodate the capacity when the industry expands, or find another revenue source that is more fair.

The Chairman called for further opponents. There being none, he asked Sponsor Donaldson to close.

REP. DONALDSON said he certainly agrees with what Mr. Christian said relative to the fact that it is indeed a 62 1/2% increase. However, I do want to point out that there has not been an increase in fees since 1975. We all recognize what inflation has done to us in the past six years. As a result, I do not think these fees are terribly out of line. There was some discussion that we will be doing more building. I have discussed this with Rep. Hurwitz, who is chairman of the subcommittee who is going to be hearing this legislation. I suggest that Rep. Hurwitz is not going to allow this to happen. There is a possibility, of course, if there is a big building boom and more fees come in, that reserves will build up. However, they can't spend those fees beyond the appropriations in the budget. This body will have the opportunity to review whether or not those monies will need to be spent. I believe the issue here is relative to whether we use general fund money, or whether it be from a fee system. I couldn't disagree any more than I do when I say this should not come from the general fund. I think this is a responsibility of the developer and it should be carried by a fee system. I also believe that the general property taxpayer, and I happen to be one very closely involved with this, faces a tremendous cost when a subdivision moves in next to you. There are costs far beyond these fees. This is the responsibility of the developer and the fees should reflect the actual cost. I wouldn't argue too much if you felt they were too substantial in one year. There is a very good likelihood that two years from now they'll be back again. If you want the developer to get the job done, it must be done by the developer and on the fee system.

QUESTIONS FROM THE COMMITTEE:

REP. ANDREASON said he has noticed some redundancy in terms of the review process. I know we review the water, sewage and other types of things. But the water Board does this itself. I am wondering why we need this duplication, and secondly why we need an individual review on each lot. Why can't we review an area as a subdivision?

MR. CASNE replied that subdivision cost is based on the number of lots and I think this is the redundancy you are speaking of. There is no redundancy between the state and local reviews. We only check their information to see if the job has been done properly. I am not familiar with what you are referring to on the sewer and water board reviewing these things. I didn't know they had input on actual subdivision review. The redundancy referred to is possibly between the local Health Department and the State Health Department. They do the review on our behalf. They send the recommendation

for denial or approval to the State Department of Health. We quickly read through their information to see if they've done the review properly, and that is all we do. We have 10 days to do that.

REP. HANNAH: If I want to plat something in Billings, I take that plat down to the Yellowstone County Health and Environmental Department. They do what they have to do and then they send it to you to make sure they've done it right? MR. CASNE replied, correct. HANNAH said, "Then you're whole function is to make sure they have done it right?" MR. CASNE said that is correct on small subdivisions of five lots or fewer. They check it out and send it to us for final approval. After we do this, we send it back with our approval or disapproval. This help on the local level is absolutely mandatory if we are to effectively handle these things in a timely fashion.

REP. HANNAH: If that is the case, Mr. Casne, I fail to see the need for the subdivision bureau at all. If all you do is check them off and send them back, it would seem to me it would be better to let them sink and let the people on the local level charge their fees. That would be fine because everything has to be completed to conform to state requirements anyway.

REP. DONALDSON: I think perhaps the one distinction you haven't drawn is that Mr. Casne said this is just for a small division. In major subdivisions like in my area where they literally drop 250 trailers down in six months, you run into a substantial concern relative to ground water, sewage, etc.

REP. HANNAH: This whole bill gives me a lot of concern. We talk about inflation; we talk about less jobs; about fewer subdivisions and rising costs. And then as a solution to the whole problem we talk about raising the costs more. The solution then, the bottom line, is we are going to charge more for less lots because it is going to have a reverse effect as far as I see it. I don't think this legislation addresses the problem. It seems to me one of the things we need to do is address duplication of services which we have on smaller lots, which I think is the majority of the work that you do. You may find that if we leave the fees as they are on the smaller number of lots, and address the major subdivisions where there is a legitimate need for the state to be involved, we might get somewhere. The way this is set up now, I'm not very sympathetic to the needs of the Subdivision Bureau. Can we address that problem in this bill?

REP. DONALDSON: I had the same problem you are having and I addressed my question to some of the people who are in the development area and asked them if we have duplication. If we don't need it, let's cut it off. There wasn't a single person who said no. They felt they were getting good service and feel they should be there. From my experience I guess I'd have to agree. I understand what you are saying, that we can drive this thing to where it is counterproductive, but there are many other things which we have to address and which we are trying to address, such as what are we going to do with polluted ground water once you have it. Their costs there are horrendous. I think this is what the state bureau is attempting to do and from what I've heard from the developers, they feel they are doing a pretty good job. As far as the costs are concerned, if you feel they are out of line, I won't argue this. If you really look at the costs, I think you'll find the inflationary costs are not too far out of line, and if you expect the service somebody will have to pay for it. The question is do they pay for it through fees or through the general fund? I think you know what side I am on in that issue.

REP. KITSELMAN for MR. CASNE: I'd like to go back to a major subdivision and I base my experience on the number we've had to extend in a year's time, perhaps 15 or 20. You mentioned a timely manner during the last year on one major subdivision. Could you give me a little more detail as to what you do? Do you actually do the nitrate test, the perk, and that type of thing, or is that done on a local level? What is the extent of review that you do at the State level?

MR. CASNE: The state Department of Health doesn't actually help the developer provide information. We require information such as percolation tests, soil evaluations, etc. from the developer. The department evaluates their submittal; their proposal; their information. We need people at the state level who are on an equal basis, expertise wise, with the developer and his engineer who are capable of giving a proper evaluation. After they submit that information to us, we review it, both the plans and on site. If it's a large subdivision, we'll take a trip to Billings or wherever necessary, walk over the land, look at the plans, drainage plans, the water and sewer plans and do an onsite evaluation. That is basically what our review consists of. The thing that I'd like to emphasize on minor subdivisions is that when you're talking about a major subdivision, you are talking about a much larger impact on a small area. You really have to have better expertise to do a good evaluation. You frequently need an engineer because they mainly design a

large public water system or a large development sewer system. You can't do it with local expertise because they don't have engineers on staff. They frequently have only sanitarians. There is only one public health department that has a licensed engineer on staff, and that is Missoula County. The local health department takes over the review of major subdivisions, but really they have to staff up their expertise.

REP. KITSELMAN: The thing I see though, is when these major subdivisions come before plat review, usually they do have an engineering firm and it is done rather extensively and that addresses the problems of water, etc. The biggest gripe I've heard from the developer and from the review processors after we have submitted the plat within the 60 days and sent it to your Department, is we still have to extend beyond that year another six months to almost two years before your check-off is done. I question the reason for your delay, especially when it comes back down to the local level where the expertise is found, especially in our area. The developer has spent thousands of dollars to do this. Then you talk about the expertise, but I find that to be done at our level, and you are performing a duplication of service and \$100,000 has gone down there.

MR. CASNE: When you talk about expertise at the local level, Yellowstone County doesn't have that staff to review water and sewer plans. We have Sanderson, Stewart and a few others on the staff of the Department, but they are brought in only at the plat review process.

REP. KITSELMAN: They are brought in right at the plat review process?

MR. CASNE: Yes, but they are trained.

REP. ANDREASON: I think we have several things to decide on when we make a decision. First of all is the matter of redundancy; second is in a decreasing housing market, should the staff decrease along with it and then increase when the housing market increases; and third is the increase needed in terms of the actual costs that are needed, besides the fact that the housing market has decreased? There was a question brought up by Mr. Christian regarding the matter of the use of the proposed money, and I think we should have more information in this area in general to make this decision. I'd like to have Mr. Casne address this one issue right now, the \$30,000 issue.

MR. CASNE: The \$30,000 issue is something that is out of my hands. The Department of Health has decided to assess an

indirect cost in my program, based on my need and percent of salaries and benefits. I, personally, do not like the idea of taking that money over to our Central Services Division, but they are people who are doing our payrolls. They feel there is a need for indirect service to my program and they charge a portion of my salaries and benefits to cover that cost.

REP. KITSELMAN: Is \$30,000 per year what they charge?

MR. CASNE; 18% of the salaries and benefits is based on our projection of a 15% increase of salaries and benefits. These were the best guesses I could make at the time I put the package together.

REP. DONALDSON stated there is always an argument as to how much of the costs should go to support facilities. This is nothing new in state government. This is probably one of the most controversial things you can get into. The cost will be resolved in the subcommittee appropriations' hearing system. As far as the 15% pay raise, I can't understand where that is coming from. These people will receive an increase similar to every other state employee.

REP. SALES asked Rep. Donaldson: You are raising the fee, \$15. \$5 of that goes to the state, which means you are raising the state fee from \$15 to \$20. The balance, or \$10, goes to the county. The county is getting a 100% increase and the state a 33% increase. Is that right?

MR. CASNE: Yes.

REP. PISTORIA: Is it necessary to have this program?

DON WILLEMS said he is administrator of the American Science Division, of which the subdivision bureau is a part. I think this is very necessary. This program has really done a lot of good for subdivisions. If you'll look back I think you'll realize this is a very necessary program.

CHAIRMAN BERTELSEN closed the hearing on HB 179.

HOUSE BILL 375.

REP. ROBERT ANDERSON, sponsor of HB 375, introduced the bill. He said this bill allows, by statute, what in many cases is already happening. It is, as the title indicates, an act to make clear that (1) rural and volunteer fire departments can purchase equipment that is necessary for their operation by use of purchase contracts, leases, leases with options to purchase for more than ten years, and (2) it allows for rural

and volunteer fire departments to establish a reserve fund account. With that I'll ask proponent, Art Korn, to speak.

ART KORN, secretary-treasurer of the Montana Volunteer Firemen's Association, said he'd cut it short. This bill originally came out of a convention to help 30 to 40 volunteer fire departments that are on a very small mill levy or a donation system. We also have about three departments in the state that probably could come up with a reasonable sum of money to buy a \$30,000 to \$40,000 piece of equipment. The rest of the departments are probably budgeted one mill for each \$1,000. You can see how long it would take, or long it would be, before they could buy a piece of equipment that now costs in the neighborhood of \$40,000 to \$50,000, unless they went to the taxpayers and asked for more money. Nobody likes to be hit with a 40 or 50 mill levy, so to cut it short, the West Valley Fire Department had a tanker, which I saw advertised through the Montana Firemen's Association media, and they gave that tanker away for about \$9,000 or \$10,000. The ink wasn't dry on the paper when 8 or 9 departments wanted that truck. This bill is very urgent for small departments which have a very small budget. It will help them to buy a piece of equipment or a second piece of equipment or another truck, housing equipment or items that go with it. We urge you to support this bill.

DAVE FISHER represented the State Fire Chief's Association. This bill is really a housekeeping matter. Nobody pays for anything in any of these districts except the people that reside in them. There are checks and balances. They set the budget and people in the district have the right to go before the County Commission and protest it. I think this is a very good piece of legislation and I support it.

JAMES A. LOFFTUS, of the Missoula Rural Fire District, said they support this piece of legislation as it would make it easier to buy needed equipment.

CHAIRMAN BERTELSEN asked if there were any opponents for HB 375. As there were none, the chairman asked Rep. Anderson to close.

REP. ANDERSON said, "I close."

QUESTIONS FROM THE COMMITTEE:

REP. HANNAH: Fire districts are paid for by the people in the fire district. Is that correct?

ANSWER: Yes.

REP. HANNAH: And the statutes do not allow for that fire district to go out and buy machinery. Is that correct?

ANSWER: Correct. So all this bill is doing is changing the ability of the volunteer fire districts to go to their people and say, "we need to buy equipment and because of the cost of the machinery we need, we need more time to pay for it." Is that correct? ANSWER: Yes.

REP. SWITZER: Are these fire districts a sufficiently solvent group so they can buy the high priced equipment?

DAVE FISHER: One of the reasons for this particular piece of legislation is that they are permitted under this particular act to create a sinking fund so they don't get knocked off the ship. If we buy a truck this year under a given amount and are fortunate enough to make an agreement when we purchase a piece of equipment at a lower price, we have the right to retain that and hold it for future use without any increase of cost in our taxes, rather than just striking it out and starting from scratch again. The installation of fire equipment is just out of this world. Prices can increase by more than \$500 in just one year's time. I urge you to recommend a do pass to HB 375.

CHAIRMAN BERTELSEN asked if there were any further questions. As there were none, he asked Rep. Anderson to close, and he did so.

CHAIRMAN BERTELSEN closed the hearing on HB 375.

HOUSE BILL NO. 381:

CHAIRMAN BERTELSEN asked Rep. Gould to introduce HB 381.

REP. GOULD said HB 381 is a simple bill. It lowers the number of people that will have to sign a petition to allow cities to disincorporate. Since I've been here in 1975, 1977, 1979 and 1981, if we don't pass all of these annexation bills, the City of Missoula will disincorporate. This will make it a little bit easier for them to do this.

PROPOSERS TO HOUSE BILL 381 - There were none.

OPPOSERS TO HOUSE BILL 381:

AL SAMPSON said he is representing the City of Missoula on this particular issue. We do not feel there is any necessity of lowering the percentage of voters to call a special election. We feel the 20% figure is adequate.

As there were no further opposers, CHAIRMAN BERTELSEN asked Rep. Gould to close.

REP. GOULD: I said it all at the beginning. I close.

QUESTIONS FROM COMMITTEE MEMBERS:

REP. KESSLER: Is there any apparent need for this legislation and, if so, can you give me a reason why?

REP. GOULD: I feel that since the cities are always complaining that they want to disincorporate, I'd make it easier for them. I don't know if there is a need for it or not.

REP. DUSSAULT: Rep. Gould, are you aware of anything in the statute that allows the city council to refer the question to the voters?

REP. GOULD, no.

REP. DUSSAULT to Rep. Gould, if you were serious about this, why didn't you introduce a bill to allow the city council by resolution to refer the question to the voters? It seems to me that would facilitate the process.

REP. GOULD: The procedure is to do it this way, and they had to get 20% of the people to sign. Apparently, they never wanted to get 20%, so I thought they might want to get 10%.

CHAIRMAN BERTELSEN closed the hearing on HB 381.

HOUSE BILL 382.

REP. GOULD, sponsor of HB 382, said this is simply a way of saving a city money and then there won't be a financial crisis. They can have volunteer firemen as well as paid firemen. We operate very well in the rural fire districts this way, and I think the city can save themselves some money.

PROPOSERS FOR HOUSE BILL 382.

JAMES LOFFTUS, of the Missoula Rural Fire District, said he is not sure if he is a proponent or an opponent. The Missoula Rural Fire District does have some part paid and some volunteer firemen. This does save the taxpayers in the rural fire district a considerable amount of money for fire protection. It would save the city of Missoula quite a lot of money, but as I read the legislation it is permissive legislation so the cities might be able to do this.

CHAIRMAN BERTELSEN asked for further proponents. There were none.

OPPOSERS FOR HOUSE BILL 382.

DAVE FISHER represented the Montana State Fire Chief's Association, and also the Montana Volunteer Firemen's Association. They have an existing situation whereby all volunteers or organizations can enter into mutual aid agreements and contracts with cities. We just completed our last convention and joined the National Association of Volunteer Firemen. Everybody had been so liberal with donating our time, that if people donate one more job to me, I'm going to have to hire a staff. We do not get paid for our work. We are firemen and proud to be so. I am also a member of the Montana Volunteer Fire Instructors. We in no way want to enter into contracts with any city at all. I can't reiterate that enough. We have enough to do as it is without taking on any more work. Parts of this bill are already in existing law. If we get involved in this, we'll muddy the water terribly with our pension programs and our insurance programs. We want absolutely nothing to do with it.

ART KORN said he is secretary-treasurer of the Montana State Volunteer Firemen's Association. I have a couple of questions which possibly Lee Heiman can answer. This bill provides for second class cities and under section 4, the new chapter stating the governing body of said city may at its discretion pay an enrolled volunteer firefighter the minimum of \$1 for attending a fire, etc. This confuses me because those volunteers that would act under this proposal would not be able to come under the Volunteer Firemen's Pension because it is strictly volunteer. The second question comes under the idea of insurance. At the present time this organization has only two second class cities, Glendive and Glasgow. The question is: under our insurance program, would the people being paid, be able to come under the group insurance plan for injury?

LEE HEIMAN: I don't think so, but I'll check.

MR. KORN said he doesn't think it does, because the volunteer Firemen Compensation Act that pays the volunteer's pension is strictly volunteer.

RAY BLEHM represented the paid firemen in the first and second class cities. One point I'll make which concerns us very much is because this particular legislative session we are making a concerted effort in the Montana State Firemen's Association to straighten out some problems with the pension system in the first and second class cities. We are in the process of trying to put it together into a unified system. If we all of a sudden throw volunteers into the question, it will really complicate this effort for us and it will confuse the efforts to straighten out our pension system more than they are now. This is a complex matter.

MIKE WALKER represented the Montana State Council of Professional Firefighters. There are several complexities involved in fire suppression. (1) We have a large fire load potential in a very confined area. (2) Every time an architect picks up a pencil and designs a new building those complexities increase, and they are increasing with every newly designed building. In the department I am affiliated with in Great Falls, we have a training and educational program that has a minimum of two hours per day and a maximum of six. Our education has to parallel these complexities. We definitely oppose HB 382.

AL SAMPSON: The president of the Missoula City Council asked me to appear here in opposition to this bill. One of the problems he pointed out is the pension bit. Right now they are talking about horrendous unfunded liabilities and I think before you pass this piece of legislation, you should take a close look at the additional pension situation. It should be clarified before you pass the legislation.

CHAIRMAN BERTELSEN said since there were no further opponents, Rep. Gould would close.

REP. GOULD closed. He said he put this bill into the hopper at the request of a constituent he couldn't talk out of it. I doubt if I could vote for the bill myself. But when you represent the people and they want something, you just about have to do what they ask.

REP. PISTORIA asked Mike Walker, the fireman from Great Falls, if he'd tell the people when he returns to Great Falls that he will vote for this bill.

REP. SALES for Ray Blehm: Does Bozeman have some volunteers working in this situation and would you explain how that works.

RAY BLEHM: In the case of the Bozeman volunteers, Bozeman has a program operating in accordance with the attorney general's ruling which grants limits outside of state law. They have authorized the city council to try and keep about 20 volunteers, but the maximum they have been able to keep or get is around 6 or 7 on a permanent basis. They have no pension coverage. Our state law doesn't provide any pension coverage and that is one of the reasons they can't use more than two or three.

REP. NEUMAN for Ray Blehm: Do the volunteers serve without pay?

RAY BLEHM: In the cities with which I am familiar with, they are paid \$25 per month. In Glendive their volunteers have a range of ranks. Two assistant chiefs receive \$11 an hour; they have others all the way down to a regular fire fighter who assists

in the volunteer program and earns \$5 an hour, on call out training time. Sometimes it becomes a bit confusing. When you say volunteers, you really mean part paid. It is a complex issue and is not something that is easily addressed.

CHAIRMAN BERTELSEN said since there were no other questions, the hearing is closed.

CHAIRMAN BERTELSEN said we have about ten bills carried over from the last meeting. We are going to have to get some of them out of the Monday evening, as we also have four bills to be heard.

The meeting adjourned at 3 p.m.


VERNER L. BERTELSEN, CHAIRMAN

hbm

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

HOUSE BILL 179

Date Sat., Feb. 7

OR REP. EUGENE DONALDSON

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
E. J. Mullin	5369 Sweeney Cr. Loop, Florence	Ravalli County Sanitation	✓	
Iern Wilcox	Missoula	self	✓	
Julia Hecker	Potomac	self	✓	
Tonia Bloom	Hamilton	League of Women Voters	✓	
FF Christman	Helena	MT ASSN of REALTORS		✓
Leon Williams	"	St. Dept. of Health	✓	
Ed Casner	"	" " "	✓	
Jack Wagner	"	Mont League of P O	✓	
Bee Lewitt	Helena	League of Women Voters	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME DARRELL FURAN BILL No. HB 179
ADDRESS 1130 17th Avs. So. Ft. Collins, DATE 2-7-81
WHOM DO YOU REPRESENT City-County Health Dept.
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME FD CASNE BILL No. HB 179
ADDRESS DEPT HELENA DATE 2/7/81
WHOM DO YOU REPRESENT DEPT OF HEALTH
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

To: House Committee on Local Government
From: League of Women Voters of Montana

The League of Women Voters strongly supports the right of all Montana citizens to a clean and healthful environment. This right is clearly assured to us in our state constitution.

Under the Sanitation in Subdivision Act the Department of Health and Environmental Sciences has the responsibility to review and lift sanitary restrictions on all land divisions under 20-acres in size. Some counties have contracted with DHES to review minor subdivisions at the local level. To cover the local health departments' costs the state returns to them a portion of the fees collected. DHES, staffed with personnel more highly trained in a variety of areas, reviews all major subdivisions. This service to local governments eliminates the need for costly duplication of expertise at the local level while still ensuring the more exacting review required by developments with a major impact.

We believe that this system of review is a good one and should be properly funded. We believe that the increase in fees proposed by HB 179 is necessary to support adequate review at both the state and local level and will benefit everyone. It will benefit the developer because it will expedite review time, avoiding the inevitable delays which come when health departments do not have adequate staff. The fee increase will benefit citizens in general because it will help ensure that state and local officials have the personnel to perform their functions well. The fees which fund this necessary review function have remained the same for four years. We believe that the proposed increase in the fee schedule is needed to keep pace with inflation.

The League of Women Voters urges the committee to support HB 179. We thank the committee for this opportunity to comment.

SUBDIVISION BUREAU
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Program Expenses and Income

CURRENT FEES

	<u>Income</u>	<u>Expenses</u>	<u>Deficit</u>
FY 1980	\$199,761	\$263,648	\$ 63,887
FY 1981	163,926	225,000 250,000	61,074 86,000
FY 1982*	199,761	283,975	84,214

PROPOSED FEES

FY 1982*	\$319,665	\$356,164	\$ 36,499
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*Assuming same work load as FY 1980

PROPOSED BUREAU EXPENSES FY 1982

	<u>Present Fee</u>	<u>Proposed Fee</u>
Salaries & Benefits**	\$148,856	\$148,856
Operating Costs	40,238	40,238
Indirect Costs	27,390	27,390
Reimbursements to Cities and Counties	67,491	139,680
	<u>\$283,975</u>	<u>\$356,164</u>

**Assuming LFAs recommendation of 9%

Re: HB 179

SUBDIVISION BUREAU
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

Work Load and Staffing Patterns

<u>WORK LOAD</u>	<u>SUBDIVISIONS REVIEWED</u>	<u>LOTS CREATED</u>	<u>PROGRAM STAFF</u>
1961-1969	50	unknown	
1970	88	unknown	
1971	106	unknown	
1972	135	unknown	
1973	250	unknown	
1974	319	unknown	
FY 1976	1040	unknown	4.0
FY 1977	1870	6,000	7.5
FY 1978	2510	15,650	8.5
FY 1979	2944	14,000	8.5
FY 1980	2099	9,980	8.0
FY 1981*	1609	8,139	6.0

Projected from 1st half figures

316 North Park
Helena, Montana 59601
406-442-9920 Ext. 37

February 9, 1981

Gustav A. Byrom II
Director

Representative Verner L. Bertelsen
Chairman, House Local Government Committee
Room 103
Capitol Building
Helena, Montana 59620

Dear Sir:

Please add the following observations to our statement of February 7 on House Bill 192. I appreciate your having left the hearing records open an additional day.

The Areawide Planning Organization Board opposes the proposed changes indicated on page one of HB 192. We feel it is very important to include review of public interest criteria even for small subdivisions. Often the cumulative effects of small land developments can be as important as the effects of large subdivisions.

The Areawide Planning Organization Board also opposes deletion of lines 18 and 19 and the changes in lines 22 to 24. We feel the requirement that subdivisions be disapproved if they are found not in the public interest, as defined in the act, is critical to insuring that decisions will be made consistent with the revised public interest criteria.

Also, we feel that the requirement to make "written findings of fact" is a necessary requirement and the proposed change to "written findings".

Thank you again for this opportunity to comment on HB 192 and we still support the proposed changes of the public interest criteria themselves.

Sincerely,

Jack Schmidt, Chairman
Areawide Planning Organization Board
JS/aw

Committee reviewing HB 192
Montana House of Representatives
Helena, Montana

Dear Committee members:

We are writing in opposition to HB 192, a proposal concerning the approval or disapproval of subdivisions in Montana.

We feel that the points of consideration that are being deleted from the previous bill are of great importance in determining the impact of a subdivision in our state.

We strongly believe that a subdivision has an effect on such things as wildlife, natural environment, and agriculture. A basis of need should be established and the public must be allowed to express opinion for or against.

We urge that after taking these points into consideration, the Committee will disapprove HB 192.

Sincerely:

Helene C. Raffety
Larry J. Raffety
Helene C. Raffety
Larry J. Raffety

Box 371
224 South 11th
Livingston, Montana 59047

Christopher G. Clancy
417 S. Yellowstone
Livingston, MT. 59047
2/5/81

House Committee
State Legislature
Helena, MT.

Dear Sirs:

I am writing to you concerning House Bill 192 which you are considering today. The purpose of this bill is to remove three criteria from the Subdivision and Platting Act. It is my opinion that those three criteria are necessary tools for local planners in their effort to control local growth.

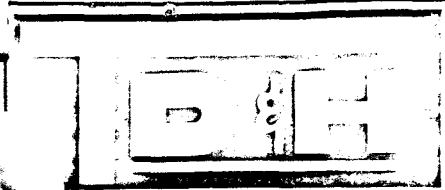
The first criteria, need, dictates that a subdivision should display that the affected community is in need of its services. Without this criteria, better lotter development will indeed result.

Public opinion, which is the second criteria that this bill seeks to omit, is a basic right which is guaranteed to all Americans. Abolishing this criteria would be a great step backward for the planning process.

The third criteria, effects on agriculture, is important to the agricultural industry in Montana. Subdivision of our prime farmland and range is slowly lowering the productivity of our state as well as the ability of Montana to produce food for the future.

I sincerely urge you to kill this bill in committee. It does not serve the best interests of the people of the state of Montana.

Thank you,
O. H. B. Cherry



THOMAS, DEAN ENGINEERING CONSULTANTS

1200 Twenty-Fifth Street South • Great Falls, Montana 59405 • (406) 761-1111 • Home Office 112

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WAYNE W. DEAN
Secretary-Treasurer

DAVID HECKLER
Chief Sanitary Engineer

January 26, 1981

RE: Proposed Subdivision
Review Increase

Verner L. Bertelsen, Chairman
Committee on Local Government
State House of Representatives
State of Montana
Helena, MT 59601

Mr. Chairman and Committee Members:

My attention has been directed to the proposed fee increase requested for the Subdivision Bureau of the Department of Health and Environmental Sciences. Inasmuch as I am involved in subdivision work, both as an Engineer and as a private developer, I am always interested in any change in subdivision review procedures and review fees. Over the past several years I have worked on subdivisions, both when they were reviewed as part of the function of the Water Quality Bureau and as they are now reviewed by the Subdivision Bureau. With the ever increasing amount of land being subdivided, I feel it is important that our State maintain a strong position in the review process.

One of the objections to the proposed fee increase is that the selling price of a lot or tract of land will be greater. This is true of course, however, an increase of \$10 to \$15 per lot does not have much of an impact on lot prices ranging from \$10,000 to \$50,000 each and new home prices which have a median range of \$75,000.

Another proposal often heard is that subdivisions should be reviewed on a local level because the local people know what they want. The local planning boards now have the responsibility of reviewing subdivisions to consider and protect local interests. Local health departments now have the responsibility and capability to inspect certificates of survey and minor plats. Neither of these agencies, in most cases, and particularly in the more rural areas, have sufficient personnel with adequate experience to review the large subdivisions. There are, of course, a few larger cities with the needed qualifications.

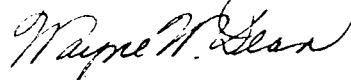


Verner L. Bertelsen, Chairman
Committee on Local Government
January 26, 1981
Page 2

I understand that a proposal has been made to transfer the functions of the Subdivision Bureau to the Water Quality Bureau. In areas of water or sewage treatment, I understand that the Subdivision Bureau obtains advice and review from the Water Quality Bureau. The Water Quality Bureau is already loaded with work, and the added load would simply increase the size of the Water Quality Bureau and could result in delays in the subdivision reviews.

I do not want to mislead anyone into believing that all my experiences with the Subdivision Bureau have been a bed of roses. We have had several hard encounters arguing over what data was required, what value certain impacts should be given, and what the regulations require as compared to subdivision statutes. I feel that our encounters have resulted in improved regulations, improved time tables, and improved projects. I certainly do not expect people charged with the responsibility of protecting our State's health and environment to take their task lightly; I do expect them to continue their professional, impartial review procedures. To accomplish and improve service, the Bureau staff should be maintained and expanded when required. I, therefore, encourage your support of the fee increase requested by the Subdivision Bureau for both the benefit of the State of Montana and/or developers and landowners particularly.

Respectfully,



Wayne W. Dean

WWD:dls

#11-X

Flathead City - County Health Department

Environmental Sciences Division,
County Sanitarian

PHONE 755-5300 -- EXT. 350 & 288

723 - 5TH AVE. F. - ROOM 228

KALISPELL, MONTANA 59901

January 27, 1981



Rep. Verner Bertelsen, Chairman
House Bill 179
House Chamber
Helena, MT 59620

Dear Rep. Bertelsen:

I am writing you as a proponent for House Bill 179. It is of the utmost significance to Flathead County to have this Bill passed. Because of the large amount of subdivision activity in Flathead County, there is a branch state office here in Kalispell which takes care of water quality and most major subdivisions.

If this Bill fails to pass, adequate funding will not be forthcoming to insure continuation of the local state office.

Since funds are generated from service fees, there is no burden whatsoever to the taxpayers. Rather the cost is shouldered by developers and/or owners.

Sincerely,

A handwritten signature in cursive script that reads "Bruce C. McIntyre, M.D.".

Dr. Bruce C. McIntyre, M.D.,
Flathead County Health Officer

BCM/js

Flathead City - County Health Department

Environmental Sciences Division

County Sanitarian

PHONE 755-3311 - EXT. 350 & 283

723 - 5TH AVE. E. - ROOM 225

KALISPELL, MONTANA 59901

February 4, 1981

Verner Betelsen, Chairman
Local Government Committee
Capitol
Helena, MT 59620

Re: House Bill 179 - Sanitation in Subdivisions Fee Increase

Dear Mr. Bertelsen:

I am writing in support of the above noted bill to increase the fees charged to review lots and parcels under the Sanitation in Subdivisions Act and its accompanying regulations. I am the Director of the Environmental Sciences Division of the Flathead City-County Health Department, and I presently review subdivision proposals for our local health department.

Flathead County, for the past several years, has seen a tremendous amount of subdivision activity, most of which involves an extensive amount of review as individual water and sewage treatment facilities are predominant. Our area is also very environmentally sensitive with numerous lakes, creeks and rivers and a great deal of shallow groundwater still used as a source of domestic water to a number of valley residents. It is our opinion that should this bill be defeated it will surely reduce the quality of review at the state level, and perhaps even at the local level in some cases.

If additional fees are not granted, the Subdivision Bureau, totally supported by these fees, will have to reduce staff, and by doing so, service will also decline. It has always been a concern of realtors and developers to speed up the review process as the need to speed up the review process is a major concern. If the number of subdivision proposals remain the same, the number of subdivision proposals will have to increase. A simple fact; twenty proposals can be reviewed by two people, each taking half, faster than if one person has to review all twenty.

We, as reviewers, are not as concerned with time as we are with the quality of review. We feel if one person has to review the twenty proposals and is still under pressure from the time element, the quality of review will have to suffer. If the feeling is that additional people can be hired if the number of submittals increases and laid off when the number decreases, it should be known that the quality of the review will also suffer. Reviewing land to determine its suitability for developing is not as simple and straightforward as one might think. It personally took me about a year to really understand what was going on and after four and one half years I am still learning new things all the time.

It's not something you can pick up, put down or hire somebody off the street if you expect quality review.

page 2
Verner Betelsen
February 4, 1981

Without belaboring the point any further I feel that a defeat of this bill will end up having a very profound effect on the subdivision process. I could go on and on about how the increased fees will generate more revenue for our office helping to defer the amount of tax generated money needed to support our various programs, but that appears very obvious and would not necessitate elaboration. What I wanted to present is a possible side effect that may not have been known or adequately considered.

I feel a continuation of the State Subdivision Bureau, with an effective and efficient level of personnel, is absolutely essential. Essential to me as a reviewer of subdivisions and essential to anybody buying property with aspects of developing it.

Should you have any possible question about the subdivision review process on the local level or our particular relationship with the State Subdivision Bureau, please do not hesitate in contacting me. Thank you!

Sincerely,



Tom Cowan, R.S.,
Flathead County Sanitarian

TMC/js

WRITTEN TESTIMONY IN SUPPORT OF HB 179

By: Elizabeth J. Knight, R.S.

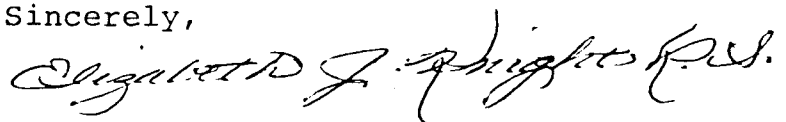
Mr. Chairman and committee members, my name is Elizabeth Knight. I am currently employed as the Jefferson - Broadwater County Sanitarian. I appreciate the opportunity to submit written testimony in support of HB 179 which allows an increase in the lot fees charged for services rendered in the review of subdivisions and also allows increased reimbursements to local governments performing the review functions.

My particular concern with this bill is that without the proposed fee increase it could very well mean the end of the Subdivision Bureau or a substantial decrease in staff members currently working for the Bureau. As a county sanitarian, I am assuming that the functions performed by the Subdivision Bureau, should it cease to exist, would then be turned over to local government entities to perform as they see fit. I feel that this would be a great injustice in many areas. First of all, the standardized process of judgement made by subdivision bureau personnel would become a very subjective process, varying from county to county, seemingly leaving you with 56 different sets of rules, regulations and policies. There then exists the problem of adequate information at the county level on which to base decisions. Numerous Montana counties are without any type of soils, geological or hydrological information at present. The political ramifications on the county level would be ridiculous. It would turn an objective program into a very subjective one; forced approvals and uncontrolled development are two problems controlled by the current system. Speaking from the standpoint of a small office which covers two counties, one county

being the third fastest growing county in the state and the other the ninth, I just don't feel that this office, in view of the current workload, could handle the subdivision review process from start to finish without adding additional staff members on the county level, to the present staff consisting of one secretary and myself. It is an assumption on my part that if this bill is not passed you, as legislators, are saying there is no need for the Subdivision Bureau. I realize that it is the trend to turn regulation back to the people and local government. Working for the local government, I for one feel that's great providing that it gives Montana citizens the best solution. It seems to me that it would be more cost effective for all involved if we could work with the bureau processes we currently have to build them into the most efficient and productive method for review, which at present, gives local governments the opportunity to be involved if they feel they have the personnel and capabilities to do so.

I therefore urge this committee to recommend a do pass on HB 179 for a subdivision review fee increase. I believe, at present, the Subdivision Bureau is the least costly and most feasible means of reviewing subdivisions.

Sincerely,



Elizabeth J. Knight, R.S.
Broadwater-Jefferson County Sanitarian
Box 622
Boulder, MT 59632

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 192
 SPONSOR REP. MOORE

Date SAT., FEB. 7

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPO
Francis Gvalcan	Kalispell	Flathead Conservat ^{District}		✓
Leah Korman	Kalispell	Flathead C.D. & Planning Bd ^{St. Francis}		✓
Henry Oldenburg	Bigfork	Self - Flathead Co. Comm		✓
Jack Schmidt	Helena	Lewis & Clark ^{Area} ^{Planning Board}		✓
David B. Adkisson	Missoula	Myself / FIC		✓
Gene Parodi	Missoula	Self + MSLA EIC.		✓
Jean Wilcox	Missoula	self	✓	
Tom Berger	Missoula	MSLA Health Dept	✓	
Jim McCauley	Helena	self	✓	
Julie Haskin	Potomac	self		✓
Gina Cahoon	11	MSLA / Community ^{Development}		✓
Donna Gray	Pray	Self		✓
Netzer Duster	Livingston	Self		✓
Chris Clancy	Livingston	Self		✓
Neil Walsh	CIANCY	MT. HAMBURG Home Builders Assn.		
Meggy Phipps	Hamilton	Self		✓
Paul Stanton	Hamilton	self		✓
Tonia Bloom	Hamilton	League of Women Voters		✓
Gary Locke	Hamilton	Butterfield ^{Association} ^{Senior Citizens}		✓
Cliff Christian	Helena	MT ASSN of REALTORS	✓	
Don Snow	Helena	EIC		✓
Tom Harrison	Helena	MT. Homebuilders Assn.	✓	
LORI MOORE PERCIVAL	BIGFORK MT. LAKECO.	MY FAMILY		✓
Rose Lewitt	Helena	League of Women Voters		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

August 1922

Dear Committee Members,

I am in favor of maintaining the E criteria and maintaining the said language to page lines 1-25.

I am a resident of Park County which has been sub-divided helter-skelter from 1 end to the other and am not happy with what has happened to our agricultural land and people in my county.

I recommend that this committee report HB 192 with the E criteria and lines 1-25 intact.

Thank you,
Netzy Surfy

NAME Tom Barger BILL No. ^{H.B.} 179
ADDRESS 1414 Jackson DATE 2/6/81
WHOM DO YOU REPRESENT Msla Co. H. D.
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME TIM E RICHARD BILL No. HB 192

ADDRESS East Helena DATE 2-7-81

WHOM DO YOU REPRESENT DCA

SUPPORT OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Jack Schmidt BILL No. 192
ADDRESS 1012 Billings Ave., Helena DATE 2/7/81
WHOM DO YOU REPRESENT Lewis & Clark Areawide Planning Organization Board
SUPPORT _____ OPPOSE ✓ unless amended AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Although we support effort to define public interest criteria, significant issues have been dropped from bill. as such we oppose HB 192. if amended in following ways, we could support bill:

- ① public interest criteria must consider effects on agricultural activities and on agricultural lands
- ② public opinion is an important factor in our consideration of subdivisions
- ③ basis of need is not well defined at this time, however, it should be included as a criterion
- ④ boards should be required to make "findings of fact," not simply "written findings," would necessitate more careful and responsible findings by boards
- ⑤ we support expansion of language concerning "taxation" & local services" as outlined in (b) (i), (ii), (c)

*Amendments submitted by Jean Wilcox,
Deputy County Attorney of Missoula County*

AMENDMENTS TO HB192 AS INTRODUCED BY REP. MOORE:

- (d) the effect the subdivision and its construction would have on ground and surface water, air, soils, slope, vegetation, wildlife, agriculture, and historical or archeological sites.

- (e) substantive public comment on the subdivision in the context of these considerations.

Oppose

WITNESS STATEMENT

Name Francis Graham Date 2-7-81
 Address 510 Pioneer Rd. Kal. Mont. Support ?
 Representing Flathead Conservation District Oppose ? X
 Which Bill ? House Bill 192 Amend ?

Comments:

The Responsibility of Flathead Conservation District is to protect Land from erosion, protect the quality of the water, and protect productive ag. land.

Subdivisions have fragmented large portions of productive farm land in the Flathead. Flathead Conservation District strongly supports keeping this act in its present form. We do not support striking from the act, those portions crossed out by House Bill 192.

The bases for need, expressed by public opinion, ~~absolutely~~ absolutely, cannot be struck from the present law. If we in western Montana possessed the expansive land base available in Eastern Montana, we would still have the same opposition to House Bill 192.

We must protect the productive land base of our county and state. ~~from~~ Permitting of free wheeling subdivisions, the approval process which doesn't establish the base form of the subdivision, just doesn't cut it with us. All of the criteria struck from the current act, are essential for evaluating any subdivision. The subdivision activity is beginning to have a disastrous impact on water quality and our livelihoods in western Montana.

Please leave prepared statement with the committee secretary.
 We urge you to consider our deep concern of the future of the Flathead & Mont.

- Our map again does demonstrate how land has been scattered with development. This has many
- effects on agriculture production, not only taking portions out of production but also threatening adjoining farmland with incompatible development.
- While I realize that all the land splits are not due to this type of loophole desired by H.B. 192, they are never the less results of a very inappropriate
- lack of review process in our subdivision laws.
- I find this bill very contradictory and a
- threat to our intellectual ability to handle a serious problem - Please vote against H.B. 192

Thank you.

Herb Koenig

yes - 17x14 - deleted.

The approval & disapproval mandate is removed
is also a very important item that would be removed.

Tonia Bloom → *Oppose*

To: House Committee on Local Government
From: League of Women Voters of Montana

The League of Women Voters of Montana would like to state its opposition to HB 192. Over the years the eight public interest criteria have provided useful guidelines for county planning boards and county commissioners in evaluating land developments. We believe the public interest criteria should remain in their present form and should continue to apply to all subdivisions.

The change proposed in lines 11 and 12 of the bill (to exempt summary review subdivisions from the provisions of the act) would severely limit the applicability of the public interest criteria. In many counties the majority of subdivisions--both in terms of numbers and in terms of acreage--fall into the summary review category. To eliminate the need to consider these subdivisions with reference to the public interest would open another huge loophole in Montana's subdivision laws.

The change proposed in lines 18 and 19 (to eliminate the requirement that a subdivision be disapproved if it is found not to be in the public interest) would clearly weaken the authority of any findings under the eight criteria.

The proposed elimination of the first three criteria (1. the basis for need; 2. expressed public opinion; and 3. effects on agriculture) would be a clear slap in the face for local control of local land-use decisions. The basis of need for a subdivision is an issue, particularly in many western Montana counties. There, in part through the use of the exemptions in the subdivision law and the relative ease of the summary review process, a pattern of widely scattered and only partially occupied rural subdivisions has developed, resulting in a demand for expensive services in outlying areas. The question of need in areas where so many platted subdivisions are unoccupied is clearly one that local authorities should be allowed to grapple with. Similarly the right for expressed public opinion to be weighed along with the other criteria would seem to be a basic tenet of local control. The proposed elimination of consideration of the effects on agriculture strikes at the very issue which is most often cited as a local concern.

The proposed changes in the remaining criteria do not appear to be an improvement. Where the criteria as originally proposed are brief and succinct, leaving specific elaboration to state and local regulations, the new versions are wordy and overly detailed. Some of the elaborations are self-evident and unnecessary. Others might open the legislative process to efforts to insert or delete the specific concerns of different groups at every legislative session. We believe that detailed guidelines for employing the public interest criteria in the review of subdivisions are best left to local regulations, where they may be tailored to local needs and conditions.

We hope that the committee will oppose this bill. We thank you for this opportunity to comment.

Oppose

NAME Henry Oldenburg BILL No. HB 192
 ADDRESS Box 373, Norfolk DATE 2/7/81
 WHOM DO YOU REPRESENT Self - Flathead County Commission
 SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Please review testimony & answers to questions: Thank You!!

Proposed amendment to strike "at least", page 1, lines 23+24 — please keep in to allow local government to exercise its constituted responsibility.

Please leave act intact especially leave in lines 17-18-19, page 1; basis of need, expressed public opinion, and effects on agriculture.

Additions on page 2 & 3 are acceptable except for lines 8+9 of page 2. But these are acceptable only if the act is kept intact before it. Thank you.
Respectfully, Henry Oldenburg

Paul Stanton
122 Birch St.
Hamilton, MT 59840
2/7/81

Approved

Testimony to House Local Government Committee, regarding HB192

I'm a member of the Ravalli County Planning board, and speak for myself, although several board members concur with my feelings on HB 192. The present law has been a valuable tool for us, without putting unfair requirements on subdividers. I know of no subdivision in Ravalli County ever denied on the basis of the law as it now stands.

The first of the eight criteria, basis of need for the subdivision, is of growing importance in areas like ours, where subdivision activity is greatly outstripping construction. Ravalli County has numerous subdivisions with less than 25% occupancy. County policy precludes public maintenance of subdivision roads in developments with less than 60% occupancy. Private maintenance is generally poor, and there is growing pressure on the county to lower the 60% minimum.

If a subdivision has other deficiencies, the need (or lack of it) should certainly be considered.

Expressed public opinion is something we simply can't ignore, yet HB 192 would signal local planners to do so. DCA guidelines suggest that an otherwise desirable subdivision shouldn't be denied solely on the basis of unpopularity. We've worked on that basis, weighing public opinion with other factors. Citizen input has alerted us to strengths and deficiencies in developments, which we'd have missed otherwise. HB 192 would discourage such input.

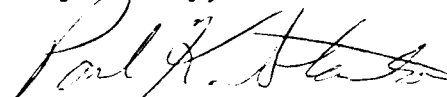
If a landowner builds a house, runs a business, or raises livestock on his own land, that's his concern, and interference should be minimized. But subdivision is an activity inherently public in nature, and impacts the surrounding community by effectively creating a community. Those whose lives will be changed by a development shouldn't be denied effective input to the review process. To do so would deny the underlying democratic premise on which our public institutions are based.

I needn't defend the importance of agriculture. Our state's basic industry has many better spokesmen here in Helena. I would like to convey the alarm expressed by several farmer/ranchers on our board when they heard that effects on agriculture might be deleted from the eight criteria.

Lines 18 and 19, page one of the bill will effectively remove the legal import of the entire law. Counties denying subdivisions because they're found to be not in the public interest, will become targets for expensive litigation.

For these reasons, I strongly recommend rejection of HB 192.

Respectfully,



Paul K. Stanton

NAME GARY Locke BILL No. HB 192
ADDRESS 507 N. 2nd Hamilton DATE _____
WHOM DO YOU REPRESENT Bitterroot Citizens for Sensible Growth
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Propose an amendment that would leave the existing section the same on page 1.

Add the Missoula amendment for public opinion then include the specific criteria line 8 pg 2 onward

Gary Locke

Presented to the Montana House of Representatives Local Government Committee regarding HB 192. Feb. 7, 1981.

Committee members:

The Bitterroot Citizens for Sensible Growth are opposed to HB 192 in its present form.

It is no secret that over 90% of all subdivided land escapes review as a result of existing exemptions. Exempting minor subdivisions from the public interest criteria would create an additional loophole in the review process. Since the majority of the subdivision proposals are for minor subdivisions, this exemption would be large enough to drive a fleet of D-9 Cats through.

Deleting the authorization to approve or disapprove any subdivision not found to be in the public interest would take away the power of law and unduly weaken this section of the Subdivision and Platting Act. The governing body of Ravalli County incorporated the 8 criteria into the subdivision review process over a year ago as a result of a lawsuit which tested both the strength and legality of the public interest section. Had the 8 criteria been guidelines, they would have been ignored.

As a result, the county has a good working tool, has not been named in any further lawsuits relating to land use, and to my knowledge, there have not been any Bitterroot subdivisions disapproved because they were not in compliance. So it can hardly be argued that this section of the Act impedes subdivision activity, nor does it seem to require too much of landowners wishing to subdivide their land.

HB 192 deletes the three most important criteria. The original sponsors of this section must also have considered them of major import as they placed them first on the list.

Gary Locke - P. 2

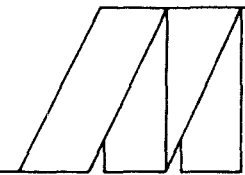
The proposed criteria in HB 192 are well worded and show sound considerations, but would prove to be too narrow and restrictive and would effectively eliminate the "public" from the public interest criteria. When this amendment was introduced in the last session, it was argued that the existing criteria were vague and would be difficult to implement. They have been tried and were found to be sound. The attempt to clarify the criteria may be a step in the right direction, but without the first three considerations, HB 192 would create more problems than it would solve. Without the force of law, and with the minor subdivision exemption the proposed guidelines would negate the citizens role in sensible growth in our great state.

Thank you for your consideration.

Sincerely submitted,

Gary Locke

Gary Locke



MISSOULA COUNTY

BOARD OF COUNTY COMMISSIONERS

• Missoula County Courthouse • Missoula, Montana 59801

(406) 721-5700

Feb. 5, 1981

Dear Legislators,

As a commissioner of Missoula County and as a citizen I am concerned about HB 192. It is my understanding this bill eliminates three criteria for passing judgment on subdivisions: Expressed public opinion, effects on agriculture, and the basis of need. I consider all three crucial and much prefer that they be included, if not appended, in the proposed bill.

Thank you for your consideration,

Gemmae Conrad

Local Government Committee

Mem. Peggy Murray, Hamilton, Ont.

In Ravalli Co. the eight public interest criteria as prepared in written form by the planning office manager are read at the public hearing for each minor and major subdivision being reviewed by the planning board or the plat committee. These written criteria often form an important basis for the group's evaluation of the development and they also act as a check and balance to the information supplied by the developer. Developments are seldom turned down in Ravalli Co. but they are scrutinized more carefully nowadays, partially because of the written findings of the eight public interest criteria.

They are as valuable applied to summary reviewed (minor) subdivisions as to the major subdivisions especially in those counties that do not have master plans.

I object to the removal of the basis for need, expressed public opinion and effects on agriculture. I also object to the elimination of the mandate for disapproval when the development is found not to be in the public interest.

Ravalli Co. and the extremes of subdividing that it has experienced have made it the butt of many derogatory remarks around the state.

But, in the past years I have seen an
improvement in the handling of subdivisions
review by the elected officials, planning
board & staff. This has been due to the
insistence on the part of Ravalli Co. citizens
that they follow the law. If you do away
with the few elements in the law that
we now have we'll be back in the dark ages.

Please vote "do not pass" on HB 192

Thank you

FINDINGS OF FACT
COMMERCIAL MINOR SUBDIVISION
STEVE PETERSEN TRACTS

BASIS OF NEED

The developer, Steve Petersen, proposes to divide a 5.31 acre parcel, which fronts Highway 93, into 5 commercial lots. The parcel is located approximately one-half mile north from the Stevensville Junction. This area has seen rapid commercial growth in the last few years which must have some negative effect on downtown Stevensville. Although the developer indicates he does not want to see haphazard strip development take place this subdivision might achieve that end and encourage other land owners in the area to follow. The farther from Stevensville Junction commercial developments occur the longer and more prominent the "strip" becomes.

The current Comprehensive Plan of Ravalli County holds that sprawling development along Highway 93 is not desirable. The Plan foresees this type of development causing traffic congestion, a decline in esthetic beauty and the encouragement of strip development (page 26 Ravalli County Comprehensive Plan 1976). The Plan encourages immediate highway frontage to be developed along residential, agricultural and open-space uses of land (page 27, Ravalli County Comprehensive Plan, 1976).

Taken in this light this proposed commercial subdivision does not seem to be compatible with the existing Comprehensive Plan of Ravalli County.

EXPRESSED PUBLIC OPINION

No public opinion, either positive or negative, has been received by the planning office regarding this subdivision.

EFFECT ON AGRICULTURE

In the past the parcel has been used for grazing. The land is not considered prime agricultural land. The parcel is not irrigated. The removal of this parcel from agricultural status will not have a severe effect on the economic aspect of agriculture in the Valley, however, it might effect surrounding agricultural land, especially between this parcel and Energy Solutions to the south, by encouraging more commercial development along Highway 93.

EFFECTS ON TAXATION

This parcel is currently classified as a suburban tract and is being taxed at a rate of \$17.41 per acre. After subdivision the tax will increase to \$38.04 per lot. The estimated tax on a \$50,000.00 home will be \$677.00.

EFFECTS ON LOCAL SERVICES

All services have been notified by the developer. The Department of Highways has responded stating they do not foresee any problem with the location of the two proposed approaches to the Highway. Highway approach permits must be applied for. A one foot no access strip along the western boundary of the subdivision, excluding the two designated driveways, is suggested to prevent individual access to the highway.

No other services have responded to date.

No severe effects on local services are anticipated from the establishment of this commercial subdivision.

EFFECTS ON THE NATURAL ENVIRONMENT

The developer intends to relocate the irrigation ditch which passes through lots 3, 4 & 5 to the subdivision's east boundary line. The ditch will enter and exit the subdivision at the same points.

There are trees on the parcel. Because of the lack of restrictive covenants prospective buyers will be able to cut the trees at their discrimination.

Because of the existing ditch located on lot 1, lots 2 and 1 will have a common septic system. Each lot will have an individual well.

Because of the minimal slope on the majority of land, there will be no excessive cuts and fills which would cause erosion problems.

There are no known historical or archeological sites located on the parcel.

The subdivision will not be subject to natural hazardous conditions, such as flooding, rock, snow, mud or land slides, high winds or severe wildfires.

EFFECTS ON WILDLIFE AND WILDLIFE HABITAT

No known rare or endangered species are known to use or inhabit the parcel. Because of the proximity of the subdivision to the Highway and Mr. Petersen's corals, wildlife has been precluded from this area. There should be no adverse effects on wildlife or wildlife habitat because of the establishment of this subdivision.

FINDINGS OF FACT
STEVE PETERSEN TRACTS
PAGE THREE

EFFECT ON PUBLIC HEALTH AND SAFETY

Stevensville Junction and the surrounding area, especially to the north, has seen a fairly rapid growth of commercial businesses. The increased traffic entering and exiting the Highway in this area has impeded through traffic and increases the risk of accidents. The unfortunate traffic death which occurred in September, 1979, in this area points to the traffic dangers in this area.

The proximity of the adjacent stock corals could result in complaints by purchasers of lots in the subdivision, and their customers because of odor and unattractiveness.

THE ABOVE FINDINGS OF FACT WERE COMPILED USING INFORMATION OBTAINED BY THE DEVELOPER AND FROM INFORMATION AVAILABLE TO THE PLANNING OFFICE. I BELIEVE THE PUBLIC INTEREST ASSESSMENTS ARE VALID AND MAY BE USED WHEN REVIEWING THE PROPOSED MINOR SUBDIVISION STEVE PETERSEN TRACTS.

Jo Anne Minich
Planning Office Manager
November 24, 1980

JAM:tmk

Office

Testimony presented to House Local Government Committee, HB 192
February 7, 1981

The Subdivision and Platting Act, as it currently stands, is not a restrictive law. To remove 3 of the 8 criteria is not only to take the heart out of the law, it is to prohibit good land use planning. Conscientious planning boards in non-charter counties would find themselves hard put to render just and sensible decisions if they could not consider the criteria of need, expressed public opinion, and the effects of a subdivision on agriculture.

I would like to speak briefly on the 3 criteria which HB 192 has earmarked for removal.

1st criterion: NEED. To say that need is not a point worthy of consideration, is to say that you are willing to put this beautiful state in the hands of a few, development-oriented forces, who have very little regard for the public need, who operate on a level much closer to personal greed. If you eliminate the criterion of need, you will have removed the cornerstone of sensible land use planning.

2nd criterion: EXPRESSED PUBLIC OPINION. I've been going to public meetings for a good many years, and I have never ceased to marvel at the wealth of expression, on any given subject, by citizens speaking up for their concerns and beliefs. The citizen should be given a voice; his views should be a part of the ultimate consideration. Isn't this the essence of our democracy?

3rd criterion: THE EFFECT OF SUBDIVISION ON AGRICULTURE. Agriculture is the backbone of the economy in Montana. Mining companies come and go; tourism depends upon the health of the national economy, the availability of fuel, but agriculture is this state's good and constant friend, in the lean years as well as the fat years. You should be protecting your agricultural lands, instead of playing into the hands of those who would do them in for a fast buck.

This country, for several years now, has been taking, annually, 3,000,000 acres out of agricultural production. Our domestic and world populations continue to grow. The inescapable fact is that as the earth's population expands, we must have the means to feed it. As a practical matter, selling food to the nations of the world helps to reduce the deficit in our national balance of payments. Agriculture badly needs your help and protection. That help must begin at the local level.

Finally, eliminating the provision that mandates disapproval of subdivisions failing to meet the criteria, is to give us a bill that leaves nothing but political favoritism as a basis for decision.

Donna Gray, Pray, Montana (Park County)

Local Government Committee

February 7, 1981

My name is David Adkisson. I am here along with my associate, Jean Parodi, to present an alarming problem that is occurring in western Montana valleys, in particular Missoula County, due to increased subdivision of agricultural land. Our perspective comes from having gathered data for the Montana Environmental Information Center, 1980 Missoula County Subdivision Inventory Report, which was completed last August. We have become exceedingly concerned over the loss of agricultural soil world wide.

It is particularly painful to learn how quickly this valuable resource is disappearing before our very eyes in the United States. Three million acres per year falls prey to building, paving, subdividing and other non-agricultural activities - another three million to erosion - a six million acre yearly loss in farmland across the United States. Thus, there truly is cause for alarm when subdivision of land occurs at a high rate and removes the potential for growing food in the future (such as in Missoula County which has very little agricultural land in the first place).

Historically, the Missoula and Bitterroot valleys have been a rich source of fruit and vegetable crops for the rest of the State. During the late 1800's, the Bitterroot's network of irrigation ditches insured the vital water supply needed for thousands of acres of cropland. Produce was shipped to Butte, Deer Lodge, Phillipsburg and Anaconda. Missoula grew as a trade and supply center and all produce was grown and consumed locally. Later, rail connections brought competition from Washington and Salt Lake City growers. Still, the area continued to grow much produce. According to older people in the area I have spoken with, a large Japanese population engaged in "truck gardening" during the 20's, 30's and 40's. Produce was sold in booths at the Bitterroot Market on the corner of 6th and Higgins in Missoula. However, during the early 50's with the opening of the first chain supermarket and the advent of the refrigerated truck produce could be brought from the west coast cheaply year round. This competition succeeded in finishing what competition from the railroads had begun fifty years earlier.

Today, only three truck farms are operating in Missoula County and two of those run with outside income. People who were once involved in agriculture are

now forced to grow houses! You can make a living that way - it hurts though. It hurts those who would like to remain in agriculture and it hurts society at large. Incredibly, according to 2 J's produce in Missoula, shipping from the west coast still costs only about five cents per pound for produce. However, energy costs and, hence, transportation costs will continue to go up. We will need to be able to grow food locally in the not-so-distant future.

The E.I.C. Subdivision Inventory Report, using Soil Conservation Service (S.C.S.) maps and calculations of prime and important farmland soils brought to light figures that startled a great many people in Missoula County. Initial findings determined that 48 percent of the County's prime agricultural soils were already built on or subdivided to lot sizes. (Prime agricultural soil, as defined by several S.C.S. criteria ultimately comes down to rainfall or availability of water. Missoula prime soils fall into the category of Class II and require irrigation.*)

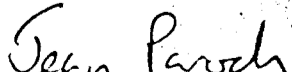
Subdividing has consumed 33 percent of the important farmland soils. Recently, however, the S.C.S. was able to classify other types of soils as prime and important. The latest figures, according to their research, has set total prime soils at 14,577 acres and important farmland at 18,697 acres.** An adjusted figure finds only 20 percent of the prime soils currently built on or subdivided to lot size and 12 percent of the important farmland in that situation. These new figures appear deceptively optimistic. Still, the fact remains that our agricultural soils only comprise a total of 2 percent of the land area in Missoula County. Efficient use of that small amount is in the public interest.

However, policy makers must strive to develop and use the best of programs developed elsewhere to insure that the individual is not forced to carry that burden alone. We realize this is beyond the focus of this bill. Yet, we urge you to resubmit language that would take into account the affects of subdivision on agriculture.

*Nationwide prime agricultural soils (Class I & II) comprise only 20% of the total land area.

**Initial figures were: 7,603 acres of prime soils
4,684 acres of important farmland


David B. Adkisson


Jean Parodi

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4,684 acres of important farmland


David B. Adkisson


Jean Parodi

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

HOUSE BILL 375

Date SAT., FEB. 7

OR REP. BOB ANDERSON

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
KORN	1416 SO WASH ST BUTTE	MONT STATE VOL FIRE	✓	—
Joe Fisher	1908 S. Washington St. Butte	Montana Iron Works	✓	
Gene Lewitt	Helena	S.W.V		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME LARRY A. LOEFFTUS BILL No. 375
 ADDRESS 14522 HELLGATE LANE DATE 7-7-51
TERRA HT
 WHOM DO YOU REPRESENT MISSOULA RURAL FIRE DIST
 SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: MISSOULA RURAL FIRE DIST. REQUESTS
THIS BILL AS IT WOULD MAKE IT EASIER
TO BUY NEEDED EQUIPMENT

NAME Sam Fisher BILL No. HB-375
 ADDRESS 1908 S. Washington St. Butte DATE 2/7/81
 WHOM DO YOU REPRESENT Mont Vol Firemen Assoc.
 SUPPORT OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME ART KORN BILL No. HB 375
ADDRESS 1916 So WASH ST Butte DATE 2-7-81
WHOM DO YOU REPRESENT MONT STATE VOL FIREMEN ASSOC
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

HOUSE BILL 381

Date Sat., FEB. 7

BILL

SPONSOR REP. BUDD GOULD

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPP
David Wilcox	Missoula	City of Missoula		✓
JAMES A. LOFFTUS	MISSOULA	MISSOULA BOREALS	✓	
Alice M. Wacker	Patuxent	see	✓	
Al Sangser	Missoula	Missoula Fire Dept		✓
Rose Leavitt	Helena	League of Women Voters		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 382
 SPONSOR REP. BUDD GOULD

Date Sat., FEB. 7

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPP
Gene Fisher	1908 S. Washington St. ^{Butte}	Mont Vol Fire Assn ^{Assoc}		✓
ART KORN	1916 SO WASH. Butte	MT ST VOL FIRE ASSOC		✓
Firemen's Association	570 Broad St Butte	Mont Vol Fire Assn		✓
Al Sampson	Misc	Misc Fire Dept		✓
Mike Walker	Cot. Falls	state Council Fire Fighters		✓
Ray Blehm	Billings	MT ST Firemen Assn		✓
Rose Leavitt	Helena	LWV		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Gene Fisher BILL No. HB. 382
ADDRESS 1908 S. Washington St. Bath DATE 2/7/81
WHOM DO YOU REPRESENT Western Fire Chiefs Assoc.
SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME ART KORN BILL No. 382
ADDRESS 1916 50 WASH BUTTE DATE 2-7-81
WHOM DO YOU REPRESENT MT ST VOL FIRE ASSOC
SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STANDING COMMITTEE REPORT

February 14 19 51

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 179

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 76-4-105 AND 76-4-128, MCA, TO INCREASE THE LOT FEES CHARGED FOR SERVICES RENDERED IN THE REVIEW OF SUBDIVISIONS; TO ALLOW MORE REIMBURSEMENT TO LOCAL GOVERNMENTS PERFORMING SUBDIVISION REVIEW FUNCTIONS."

Respectfully report as follows: That HOUSE Bill No. 179

Amend House Bill 179.

Page 1, line 13.
Following: "~~\$25~~"
Strike: "~~\$40~~"
Insert: "\$30"

Page 3, line 2.
Following: "~~\$10~~"
Strike: "~~\$20~~"
Insert: "\$15"

AS AMENDED
DO PASS

STANDING COMMITTEE REPORT

February 17, 1961

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 192

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 76-3-608, MCA, TO MODIFY AND DEFINE THE PUBLIC INTEREST CRITERIA FOR LOCAL GOVERNMENT REVIEW OF SUBDIVISIONS."

Respectfully report as follows: That HOUSE Bill No. 192

Amend House Bill 192

1. Page 1, lines 11 and 12.

Following: "The"

Strike: "Except for those subdivisions eligible for summary review, the"

Insert: "The"

2. Page 2.

Following: line 7

Insert: "(a) expressed public opinion provided that it is in the context of the other criteria;

(b) effects on ~~agriculture and agricultural land~~, considering at least the productive capability of the land, agricultural preservation plans for the area, and the uniqueness or importance to the local economy of the agricultural commodities produced;"

Reletter: subsequent subsections

AS AMENDED

DO PASS

Verner L. Bertelsen Chairman.

STANDING COMMITTEE REPORT

February 16, 1911

MR. SPERSON

We, your committee on LOCAL GOVERNMENT

HOUSE

375

having had under consideration Bill No.

A BILL FOR AN ACT ENTITLED: "AN ACT TO MAKE IT CLEAR THAT TOWNSHIPS OF FIRE DISTRICTS ESTABLISHED IN ANY UNINCORPORATED TERRITORY, TOWN, OR VILLAGE MAY ENTER INTO LEASE AND PURCHASE CONTRACTS AND MAY ESTABLISH RESERVE FUNDS TO PROVIDE FIREFIGHTING APPARATUS, EQUIPMENT, HOUSING, AND FACILITIES FOR THE PROTECTION OF THE DISTRICT; AMENDING SECTION 7-33-2105, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 375

BO PASS

Vernor L. Bortelsen Chairman

STANDING COMMITTEE REPORT

February 10, 1951

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 301

A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE PERCENTAGE OF REGISTERED ELECTORS REQUIRED TO PETITION FOR DISINCORPORATION OF MUNICIPALITIES; AMENDING SECTION 7-2-4902, MCA."

Respectfully report as follows: That HOUSE Bill No. 301

DO NOT PASS

DO PASS

STANDING COMMITTEE REPORT

February 10, 1951

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 382

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A FIRST-CLASS CITY TO SUPPLEMENT ITS PAID FIRE DEPARTMENT WITH VOLUNTEER FIREFIGHTERS; AMENDING SECTION 7-33-4109, MCA."

Respectfully report as follows: That HOUSE Bill No. 382

DO NOT PASS

~~NO PASS~~