

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 21, 1985

The twenty-fifth meeting of the Local Government Committee was called to order at 12:30 p.m. on March 21, 1985 by Chairman Dave Fuller in Room 405 of the Capitol Building .

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 768: Representative Dorothy Bradley, District #79, is the sponsor of this bill. The bill was introduced to exempt apartments and other portions of buildings that are rented or leased from review as subdivisions; to exempt subdivisions, including condominiums, served by municipal water and sewage facilities in Class 1 and Class 2 municipalities from department review.

PROPONENTS

Terry Carmody, representing the Montana Association of Realtors, stated his support of the bill.

Riley Johnson, representing the Montana Association of Builders, stated his support of the bill.

Jim Richard, representing the Montana Association of Planners, stated his support of the bill.

Bill Spilker, a Helena resident, spoke in favor of the bill. He said once the Department of Health has approved a piece of land for a certain number of dwellings, the sanitary restrictions can then be removed.

Steve Pilcher, representing the Water Quality Bureau of the Department of Health and Environmental Sciences, stated his support of the bill.

OPPONENTS

There were no opponents to HB 768.

Chairman Fuller opened the hearing for Committee questions. There were no Committee questions regarding HB 768.

The hearing was closed on HB 768.

ACTION TAKEN ON HOUSE BILL 768: Senator Story moved that HB 768 BE CONCURRED IN. The motion passed unanimously. Senator Story will carry the bill.

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FURTHER CONSIDERATION OF HOUSE BILL 673: Karen Renne explained proposed amendments to the bill. They are attached as Exhibit A to these minutes.

Senator Mohar expressed concern about the "ten working days" in the bill. He wondered how this would be handled in cases where a county commission only meets once or twice a month.

Senator Harding expressed concern with suing an appointed election administrator. Karen Renne will research these concerns.

Senator Mohar moved the proposed amendments be adopted. The motion passed unanimously.

CONSIDERATION OF HOUSE BILL 791: Representative Ray Brandewie, District #49, is the sponsor of this bill. The bill was introduced to provide restricted review requirements for minor subdivisions and other divisions of land.

PROPONENTS

Mike Money, President of the Montana Association of Planners, spoke in favor of the bill. He said this bill would address one of the major problems with the Subdivision and Platting Act. He said local governments are required to service these large tracts of land even though they have no access roads. He said the bill would guarantee that land can be developed to the potential it was sold for. He submitted a letter of support from Earl Best, Gallatin County Surveyor. It is attached as Exhibit B to these minutes.

Jerry Sorenson, Planning Director for Lake County, spoke in favor of the bill. His written testimony is attached as Exhibit C to these minutes. He submitted letters of support from the Lake County Commissioners and Rick Smith, a Polson Century 21 Broker. They are attached as Exhibits D and E to these minutes respectively.

Rose Leavitt, representing the Montana League of Women Voters, spoke in favor of the bill. Her written testimony is attached as Exhibit F to these minutes.

Rod McCracken, representing the Department of Commerce and the Governor's Task Force on Infrastructure, spoke in favor of the bill. He said the Governor's Task Force on Infrastructure recognizes that the Subdivision and Platting Act should be changed to ensure that public health and safety be protected.

Bill Spilker, a Helena resident, spoke in favor of the bill. He said he recognizes the need for access but has trouble with the term "appropriate access and easements." He feels some counties could interpret this to mean you have to put in a paved road which is not necessary. The wording could lead to arbitrary administrative decisions for local governments.

March 21, 1985

Terry Carmody, Montana Association of Realtors, stated his support of the bill.

Riley Johnson, representing the Montana Homebuilders' Association, stated his support of the bill. He said he also has concerns about the lack of direction to local governments on interpretation.

Jim Richard, representing the Montana Association of Planners, stated his support of the bill.

Don Reed, representing the Montana Environmental Association, stated his support of the bill.

A letter of support was submitted by the Lewis and Clark County Commissioners. It is attached as Exhibit G.

OPPONENTS

Robert Custer, representing the Montana Association of Registered Land Surveyors, spoke in opposition to the bill. He said he supports the concept of the bill but is also concerned with the term "appropriate and proper." He said he is afraid that people would have to pay a lot of money for plans and specifications.

Julie Hacker, representing the Missoula County Freeholders Association, spoke in opposition to the bill. Her written testimony is attached as Exhibit H to these minutes.

Chairman Fuller opened the hearing for Committee questions.

Senator Crippen asked Mr. Money how he would define "proper and appropriate." Mr. Money said he would agree to have the bill amended to define these terms.

Senator Story expressed concern that they would be reviewing places such as mountain cabins and divided ranches for access. Mr. Richard said there is an agricultural exemption in the Subdivision and Platting Act. Senator McCallum said he felt this should be spelled out in the bill. He also said he feels there are too many regulations and requirements put on subdivisions and occasional sales.

The hearing was closed on HB 791.

CONSIDERATION OF HOUSE BILL 516: Representative Kerry Keyser, District #74, is the sponsor of this bill. The bill was introduced to provide that local governing bodies and the Department of Health and Environmental Sciences may apply only those rules in effect at the time a subdivision application is submitted for review.

March 21, 1985

PROPOSERS

Terry Carmody, representing the Montana Association of Realtors, stated his support of the bill.

Riley Johnson, representing the Montana Association of Builders, stated his support of the bill.

Jim Richard, representing the Montana Association of Planners, stated his support of the bill.

OPPOSERS

There were no opposers to the bill.

Chairman Fuller opened the hearing for Committee questions.

Senator Fuller asked if there was a particular incidence in Representative Keyser's area where the rules were switched on them. Representative Keyser said there was an incidence where the Department of Health switched the rules on them.

Senator Mohar asked if there were safeguards to prevent someone asking for an extension until new rules went into effect. Representative Keyser said there were safeguards to protect from this.

The hearing was closed on HB 516.

CONSIDERATION OF HOUSE BILL 890: Representative Red Menahan, District #67, is the sponsor of this bill. The bill was introduced to provide that a municipality may create a board to or may itself issue and renew cable television system franchises and may regulate cable service as authorized by federal law.

PROPOSERS

There were no proposers to HB 890.

OPPOSERS

Tom Harrison, representing the Montana Cable Television Association, spoke in opposition to the bill. He said the terms in the bill are subjective and confusing. He said he spoke with the Citizens' Advocate Office to find out what types of complaints had been received regarding cable television service. He said the types of complaints, i.e., busy telephones and not being able to get cable hookup immediately, were problems due to running a peak and valley business. He said they had tried to offer discounts while people were on vacation, but this resulted in a very large loss of revenue because people took advantage of it. He feels they have plenty of competition with people who put in satellite dishes.

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Russ Ritter, Mayor of Helena, spoke in opposition to the bill. He said the City does not want to get into any type of regulation where they would need to decide what should or should not be on television.

Wes Huffman, Local Manager of Helena Cable TV, spoke in opposition to the bill. His written testimony is attached as Exhibit I to these minutes.

Don Deshaw, representing Cable TV of Harlowton, stated his opposition to the bill.

Hank Sexton, representing Anaconda Cable TV, stated his opposition to the bill.

Don Henke, representing Philipsburg Cable TV, stated his opposition to the bill.

Ken Watts, representing Butte Cable TV, stated his opposition to the bill.

Tom Glendenning, representing Bozeman Cable TV, stated his opposition to the bill.

Ken Young, representing Rattle Snake Cable TV, stated his opposition to the bill.

Doug Rice, representing Billings Cable TV, stated his opposition to the bill.

Les Harris, representing Billings Cable TV, stated his opposition to the bill.

Les Hilliard, representing Laurel Cable TV, stated his opposition to the bill.

Don Branton of Livingston Cable TV submitted a letter of opposition to the bill. It is attached as Exhibit J to these minutes.

Chairman Fuller opened the hearing for Committee questions.

Senator Crippen asked how he could go about getting a particular program off or on cable TV. Mr. Harrison said the decision would be made at the area level.

The hearing was closed on HB 890.

March 21, 1985

CONSIDERATION OF HOUSE BILL 519: Representative Walter Sales, District #76, is the sponsor of this bill. The bill was introduced to require payment of property taxes before a parcel of land may be divided.

PROPOSERS

Mike Stephen, representing the Montana Clerk and Recorders' Association, stated his support of the bill.

Jim Richard, representing the Montana Association of Planners, stated his support of the bill.

Bill Verwolf, representing the Montana League of Cities and Towns, stated his support of the bill.

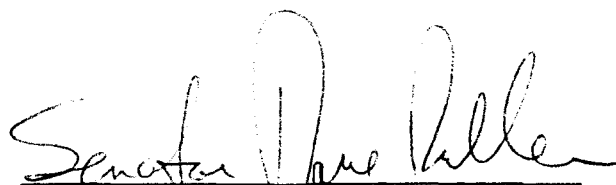
OPPOSERS

There were no opposers to HB 519.

Chairman Fuller opened the hearing for committee questions.

Senator Crippen asked what would happen if there was a contested tax. Representative Sales said the land could not be divided because the taxes would not have been paid.

The meeting adjourned at 2:30 p.m.



Senator Dave Fuller, Chairman

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

49th
~~XXXX~~ LEGISLATIVE SESSION -- 1985

Date 3-21-85

SENATE
SEAT

#

NAME	PRESENT	ABSENT	EXCUSED
13 Senator Crippen, Bruce	✓		
18 Senator Eck, Dorothy	✓		
11 Senator Harding, Ethel	✓		
47 Senator Hirsch, Les	✓		
4 Senator McCallum, George	✓ late		
28 Senator Mohar, John (V.Chair)	✓		
44 Senator Pinsoneault, Dick	✓ late		
19 Senator Regan, Pat	✓		
21 Senator Story, Pete	✓		
43 Senator Fuller, Dave (Chair)	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

MARCH 21

85

19.....

MR. PRESIDENT

LOCAL GOVERNMENT

We, your committee on.....

HOUSE BILL

768

having had under consideration.....

No.....

THIRD

BLUE

reading copy (.....)

(STORY WILL CARRY)

color

EXEMPT CERTAIN CONDOMINIUMS FROM SUBDIVISION REVIEW

HOUSE BILL

768

Respectfully report as follows: That.....

No.....

BE CONCURRED IN

XXXXXX
DO PASS

XXXXXXXX
DO NOT PASS

Senator Dave Fuller

Chairman.

*Adopted by
Committee
3/21*

PROPOSED AMENDMENT TO HOUSE BILL 673

1. Page 1, line 18.
Following: "~~electors~~"
Strike: "Within"
Insert: "The governing body may direct that a suit be brought in district court by the local government to determine whether the proposed action would be valid and constitutional, but such a suit must be initiated within"
2. Page 1, lines 20 through 24.
Following: "7-5-134" in line 20
Strike: remainder of line 20 through "constitutional" in line 24

LOCAL GOVERNMENT COMMITTEE
MARCH 21, 1985
EXHIBIT B

Mike Monev - HB 791

306 Lindley Place
Bozeman, Mt. 59715
March 20, 1985

Dear Montana Legislators:

I write this letter to offer my support for House Bill #791. I have been a registered land surveyor for many years, and have practiced both in the public and private sectors. Therefore, I feel I am qualified to comment on the practical and sensible provisions contained within House Bill #791.

All parcels of land, whether created through the subdivision process or through the use of the exemptions, need to have direct and safe access to a public or private road. The obvious reasons for this need are police and fire protection; but other reasons also exist, such as resale value of property, future liability, maintenance, and future owners' rights to maintain use. All too often these needs are overlooked until it is time to resell the property or a tragic accident happens.

In relation to utility easements, it is only logical to provide corridors for the needed extension of electricity, telephone, natural gas, etc. If a corridor is not made available, I question how the property may be developed to the potential it was originally created and sold for.

Thank you for the opportunity to express the reasoning for my support for House Bill #791.

Sincerely,

Earl R. Best - Reg # 779ES
Earl Best

TESTIMONY SUPPORTING H.B. 791

by: Jerry Sorensen, Planning Director, Lake County.

I support the above bill, especially for reasons that it will enhance public safety. The predominant growth trend in the last decade in Lake County was rural homesite development (42% rural vs. 10% town). Much of this began with 20 acre tracts, which were subsequently divided into smaller tracts. In many cases the road access is either too narrow, too steep, poorly defined, or poorly constructed. Rural volunteer fire departments are obligated to protect these homes, and in many cases it will be difficult to get equipment to them because of road conditions. This is true of other emergency services such as the sheriff or ambulance. Another related problem is that some of these large tract developments are in forested areas. In the event of forest fire, it will be difficult for people to escape and fire equipment to enter on the same poor road. This sort of calamity almost occurred at the Red Owl fire in the Swan Valley last year. In light of this concern, it seems reasonable that an adequate road should be part of any development.

The major objection I've heard concerning this bill is that it gives local government the authority to determine the type of access. Montana is a diverse state in respect to landscapes, growth pressures, and community attitudes. It would be impractical to develop a statewide road standard for rural roads that fit all cases. I feel that the legislature should have confidence in local government and give them the flexibility to determine what is needed based on the situation. I have worked for local government for 8 years and it is my experience that elected officials are very receptive to public opinion. If people have problems with the way this bill is administered, they have open access to local government and can work to change it.

Thank you and I urge your support for this bill.

LAKE COUNTY, MONTANA

COUNTY COMMISSIONERS

DON CORRIGAN
Polson

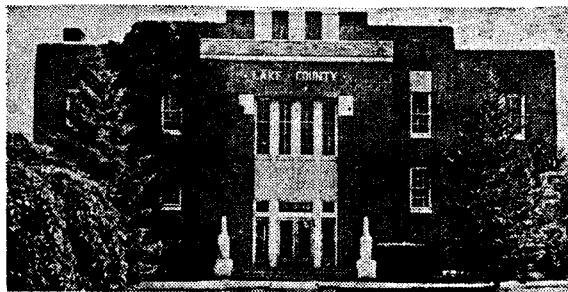
HAROLD FITZNER
St. Ignatius

MIKE W. HUTCHIN
Polson

TREASURER
MARJORIE D. KNAUS

CLERK AND RECORDER
ETHEL M. HARDING

ASSESSOR
WILL TIDY



SHERIFF AND CORONER
GLENN FRAME

CLERK OF COURT
KATHERINE E. PEDERSEN

SUPERINTENDENT OF SCHOOLS
GLENNADENE FERRELL

COUNTY ATTORNEY
JOHN FREDERICK

JUSTICE OF THE PEACE
CHARLES C. MEYER
Ronan

COUNTY SURVEYOR

POLSON, MONTANA 59860

March 20, 1985

Senator David Fuller, Chairman
Senate Local Government Committee
Capitol Station
Helena, Mt. 59620

LOCAL GOVERNMENT COMMITTEE
MARCH 21, 1985
EXHIBIT D

Re: H.B. 791

Dear Senator Fuller,

The Board of Lake County Commissioners has reviewed H.B. 791. This bill would provide local government minimum review authority over land divisions consisting of parcels 20 acres or larger. The review would be limited to the provision of adequate road access and utility easements.

Over the last 10 years approximately 8,500 acres of land was divided in Lake County into parcels of 20 to 40 acres in size. This accounted for 52% of the subdivisions in our county. We have seen problems with the roads that serve these tracts which include: inadequate right-of-way and driving width, poor surface material, non-existent drainage, steep grades, weed proliferation from ground disturbance, and no coordination of road patterns when the tracts are further subdivided (which is often the case).

There are benefits to the developer, consumer, and general public if access and utility easements are reviewed by the county. It gives us the opportunity to plan for coordination and extensions of road systems and utility services. We can also help assure that the roads are adequate to provide reasonable access for emergency services, especially fire protection. And finally, local review provides a forum for the county to work with the developer. We have qualified and experienced road department and planning personnel who can give advise to the developer on proper location and design. The result can be better quality development which benefits everyone.

H.B. 791 is a positive step in enhancing good development and we urge your support for this bill.

Sincerely,
Board of Lake County Commissioners

Mike Hutchin
Mike Hutchin

Chairman

Harold Fitzner
Harold Fitzner

Member

Don Peterson
Don Peterson

Member

MH/HF/DP/rh

cc: Senator Ethel Harding

Senator R. L. Pingenault

Johnson-HB 791

LOCAL GOVERNMENT COMMITTEE
MARCH 21, 1985
EXHIBIT E

March 20, 1985

Senator David Fuller Chairman
Senate Local Government Committee
Capitol Station
Helena, Mt.

Dear Senator Fuller:

As a real estate broker in Montana I am very concerned about having a quality product to sell.

HB 791 states that access must be approved to a parcel of land that has been divided off to sell. This bill will protect the public when purchasing land. A law such as HB 791 is important especially in Montana with our vast land and many roads that are neither state or county.

I support HB 791 and urge your committee to also.

Sincerely yours,



Ric Smith
Broker Associate
Century 21 Big Sky Real Estate
P.O. Box 1037
Polson, Mt. 59860

Mar. 19, 1985

Testimony — HP 791

Presented by Joe Leavitt

LOCAL GOVERNMENT COMMITTEE
MARCH 21, 1985
EXHIBIT F

The League of Women Voters of Montana supports HB 791. When a series of parcels 20 acres or more in size are created without providing for appropriate access and easements, complicated problems arise for the buyers of these parcels and for the local governments to whom they turn for help. It is entirely reasonable that these problems be addressed before the land divisions are filed at the county courthouse.

While we support this bill the League regrets that the legislature has so far not seen fit to correct some of the many other difficulties created by the Subdivision and Platting Act. The use of such exemptions as the occasional sale, gift to family members and mortgage release to create multiple land divisions is a serious problem. In western Montana the majority of land splits are exempt from subdivision review. Lack of review is allowing many poorly planned developments to proliferate and will ultimately result in higher costs to local taxpayers.

We support HB 791 in so far as it goes and urge that attention be given to these other serious problems. Thank you for this opportunity to comment.

Lu Vof Int



LEWIS AND CLARK COUNTY

Board of County Commissioners

File: 1010 HB791.M20
March 20, 1985

TESTIMONY HB 791

At the present time, the Subdivision and Platting Act permits property to be divided through the use of various exemptions. The present law does not provide a review provision to assure that each newly created parcel has direct access, nor easements to assure that some access is provided.

Without such a provision to review for access, roads are often improperly constructed without any thought for their relationship to the surrounding environment. Frequently, individual subdividers have no foresight for how the traffic generated from the newly created lots will merge and connect with the existing county and city streets. In addition, parcels may be created that are completely landlocked and have no access to them.

Local government is responsible for the health, safety, and general welfare of its citizens. This responsibility for the public includes addressing the following concerns:

- A. Public safety concerns that relate to the construction and alignment of roads;
- B. General welfare concerns that relate to access and their environmental impacts.

Recognizing the local government's responsibility for the health, safety, and general welfare of its citizens, the 1983 Lewis and Clark County Comprehensive Plan has identified the following Land Use Goal (page 7):

"To provide an effective road network"

If local governments could review lots created by exemption to assure that access is adequately provided, then a county such as Lewis and Clark County would have a means to implement its goal to provide an effective road network. However, the present law does not provide for such a review option to the local governments. HB 791 would provide such a review option for access to the local governments.

The LEWIS AND CLARK COUNTY COMMISSIONERS support HB 791, and asks your favorable consideration of this bill.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
LEWIS AND CLARK COUNTY



Bob Decker, Chairman



Jim Campbell

not available for signature

Linda Stoll-Anderson

NAME Julie Thacher BILL NO. HB 791
ADDRESS Star Rte - Loomer DATE 3/21
WHOM DO YOU REPRESENT Self
SUPPORT _____ OPPOSE _____ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Flexibility for govt means more regulations for the people
2. Strike paper + appropriate
3. Leave determination of course to the licensed, elected professional surveyors discretion.
4. Review if necessary by elected Co. Surveyor, not the planners.

DH.

LOCAL GOVERNMENT COMMITTEE
MARCH 21, 1985
EXHIBIT I

NAME Wes Huffman

BILL NO. 890

ADDRESS 613 No. Main Helena, MT

DATE 3-21-85

WHOM DO YOU REPRESENT HELENA CABLE TV

SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I oppose HB 890 because:

- (1) Would create AN ~~UNNECESSARY~~ UNNECESSARY LAYER OF CODIFIED REGULATION. Nothing currently prohibits the creation of LOCAL ADVISORY groups relative to A CITY-CABLE FRANCHISE Agreement.
- (2) This bill would give authority to "volunteer" groups to establish fees/taxes, set program content AND generally regulate A community business. These responsibilities must NOT be delegated to non-elected officials.
- (3) The language "Economic, Adequate AND efficient" IS Vague, confusing AND could conflict with FEDERAL LAW, The CABLE Communications Policy Act of 1984.
- (4) This bill could encourage the "politicization" OF AN essentially business relationship between cities AND CABLE operators.

Respectfully submitted,

Wes Huffman

Livingston Cable TV



203 SOUTH MAIN
LIVINGSTON, MONTANA 59047
406-222-0232

*Enter
into
record
3/21/85*

LOCAL GOVERNMENT COMMITTEE
MARCH 21, 1985
EXHIBIT J

March 8, 1985

Senator Pete Story
1714 5th Avenue
Helena, Montana 59601

Subject: House Bill #890

Dear Senator Story:

Since the Federal Regulations already cover this area, a second tier of regulation isn't needed and would cause some problems at a later date if the Federal Rules are changed. We could be caught in between and it could cause problems.

Line 18 has language that everyone can argue over because it is so ambiguous. What is adequate, economical, and efficient in the eyes of a board made up of people who know nothing about cable TV, or anyone else.

The Citys do not need authorization to set up a board, it is and has been done for several years. We found that the boards are generally made up of special interest people who do not have the people's interest at heart. This kind of board does not have to answer to the people as the elected officials do. A very poor form of government.

During Mr. Manahan's presentation of the bill to the House Committee, he told the committee that he had talked to the Citizens Advocate office about the complaints on cable TV. He advised the committee that the Advocate's Office told him that we had one of the worst records of all of the businesses' that they deal with. Our Area Manager Mr. Hank Sexton went down to the Citizens Advocate Office when the meeting was over and they advised us that they knew nothing about this and that they have had very few problems with cable TV.

Cordially,


Don Branton

3-21-85

LOCAL GOV'T

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Robert S. Custer	Mont. Assoc. Reg. hand Surv.	791		✓
Les Hilliard	Laurel Cable TV.	980		✓
Tom Glendinning	BOZEMAN CABLE TV	890		✓
Ken Watts	Butte Cable TV	890		✓
Les HARRIS	Billings Cable TV	890		✓
Don Henke	Philipsburg Cable TV	890		✓
Wes Huffman	HELENA CABLE TV	890		✓
Russ Ritter	Mayor of Helena	890		✓
Robert M. McCracken	MT. Dept. of Commerce	791	X	
Doug Zue	Billings MT	890		✓
Chris Leavitt	LWV of Mt. Helena	791	✓	
DON REED	M EIC	791	✓	
Steve Pilcher	D HES	768	✓	
Terry Connolly		768 516 791 319	✓	
Don DeShaw	Cable TV. of Harbo	890		✓
Ken Young	Cable TV. of Hattie Scott	890		✓
Mike Styker	MT clock & Record	519		

(Please leave prepared statement with Secretariat)