

**MINUTES OF THE MEETING
OF THE
LEGISLATIVE COMMISSION'S
STUDY TO DEVELOP ENABLING LEGISLATION
FOR THE CREATION OF INCORPORATED TOWNS
(Assembly Bill 381, Chapter 538, *Statutes of Nevada 2001*)
March 25, 2002
Pahrump, Nevada**

The second meeting of Nevada's Legislative Commission's Study to Develop Enabling Legislation for the Creation of Incorporated Towns for the 2001-2002 interim was held on Monday, March 25, 2002, at 10 a.m., in Pahrump, Nevada. Pages 2 and 3 contain the revised "Meeting Notice and Agenda."

COMMITTEE MEMBERS PRESENT IN PAHRUMP:

Assemblyman Douglas A. Bache, Chairman
Senator Ann O'Connell
Senator Michael Schneider

COMMITTEE MEMBERS EXCUSED:

Assemblyman David E. Humke
Assemblyman P.M. "Roy" Neighbors

COMMITTEE MEMBER ABSENT:

Senator Jon C. Porter

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

David S. Ziegler, Principal Research Analyst, Research Division
M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division
Kennedy, Senior Research Secretary, Research Division

**REVISED
MEETING NOTICE AND AGENDA**

Name of Organization:	Legislative Commission's Study to Develop Enabling Legislation for the Creation of Incorporated Towns (Assembly Bill 381, Chapter 538, <i>Statutes of Nevada 2001</i>)
Date and Time of Meeting:	March 25, 2002 10 a.m.
Place of Meeting:	Mountain View Casino and Bowl 1750 South Pahrump Valley Boulevard Pahrump, Nevada

A G E N D A

I. Opening Remarks

Assemblyman Douglas A. Bache

- *II. Approval of Minutes from the November 8, 2001, Subcommittee Meeting, and from the January 28, 2002, Meeting of the Advisory Committee to the Subcommittee
- III. Discussion of Whether to Amend State Law to Allow a Charter City to Exercise the Authority of a General Law City when the City's Charter Does Not Include Like Provisions that are Applicable to a General Law City
- *IV. Discussion of a Means to Disincorporate a City when the City is No Longer Fiscally Viable

Marla L. McDade Williams, Senior Research Analyst, Research Division,
Legislative Counsel Bureau (LCB)

- V. Presentation Concerning Requirements to Establish Boundaries and Conduct Surveys When an Unincorporated Town is Formed, When a Subdivision is Annexed to an Unincorporated Town, or When an Incorporated City is Formed in Nevada

Marla L. McDade Williams, Senior Research Analyst, Research Division, LCB

- *VI. Presentation and Discussion of a Bill Draft to Provide for the Incorporation of Towns in Nevada

M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division, LCB

- *VII. Discussion of Other Issues Concerning Incorporated Cities and Unincorporated Towns in Relation to the Incorporation of Towns in Nevada

VIII. Public Testimony

IX. Adjournment

*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call Kennedy at (775) 684-6825 as soon as possible.

Notice of this meeting was posted in the following Pahrump, Nevada, location: Mountain View Casino and Bowl, 1750 South Pahrump Valley Boulevard. Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; and Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature's website at www.leg.state.nv.us.

OPENING REMARKS

Chairman Douglas A. Bache called the meeting to order at 10:22 a.m. and directed the secretary to call roll. He introduced David S. Ziegler, Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB), who is substituting for Marla L. McDade Williams, Senior Research Analyst, LCB.

Chairman Bache said the proposed legislation was not intended to change Pahrump from an unincorporated town with a town board form of government to an incorporated town or city. Rather, the legislation offered an alternative to all communities in Nevada with a fair population base to become an incorporated town. He noted a void in levels of local government between cities and unincorporated towns in Nevada and said other states have an intermediate form of government, either through charter township or incorporated town structure. He said an intermediate form of

government could provide services to its community with more powers than those offered by unincorporated towns.

APPROVAL OF MINUTES
FROM THE NOVEMBER 8, 2001, SUBCOMMITTEE MEETING, AND
FROM THE JANUARY 28, 2002, MEETING OF THE ADVISORY COMMITTEE TO THE
SUBCOMMITTEE

No action was taken on this agenda item due to a lack of a quorum.

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DISCUSSION OF WHETHER TO AMEND STATE LAW
TO ALLOW A CHARTER CITY TO EXERCISE THE AUTHORITY OF
A GENERAL LAW CITY WHEN THE CITY'S CHARTER DOES NOT INCLUDE LIKE
PROVISIONS THAT ARE APPLICABLE TO
A GENERAL LAW CITY

David S. Ziegler

David S. Ziegler, Principal Research Analyst, Research Division, LCB, Carson City, explained the applicability of the *Nevada Revised Statutes* (NRS) to charter cities. He said a question was raised regarding what Nevada laws apply to a charter city when its charter is silent on a particular subject for which there is a general law applicable to a general law city. He stated that when a city's charter is silent regarding a particular topic, the provisions regarding general law cities do not apply, according to Chapter 266 of the NRS, "General Law for Incorporation of Cities and Towns."

Mr. Ziegler further explained that other statutes apply to charter cities, including provisions in Chapter 268 of NRS, "Powers and Duties Common to Cities and Towns Incorporated Under General or Special Laws"; Chapter 278, "Planning and Zoning"; Chapter 279, "Redevelopment of Communities"; and NRS 354.470 through 354.626 concerning, "Budgets of Local Governments."

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DISCUSSION OF A MEANS TO DISINCORPORATE A CITY
WHEN THE CITY IS NO LONGER FISCALLY VIABLE

David S. Ziegler

David S. Ziegler, previously identified in these minutes, provided background information regarding the disincorporation of cities when the city is no longer fiscally viable (**Exhibit A**), and he highlighted the following:

- In the 1995 Session, the Legislature enacted two bills, Assembly Bill (A.B.) 536 (Chapter 112, *Statutes of Nevada 1995*), and A.B. 728 (Chapter 550, *Statutes of Nevada 1995*). Assembly Bill 536 provided a procedure for the financial administration of a local government in a severe financial emergency, and A.B. 728 revised provisions governing local financial administration.
- In the 1999 Session, the Legislature enacted additional bills on this topic, including A.B. 606 (Chapter 227, *Statutes of Nevada 1999*) and Senate Bill (S.B.) 473 (Chapter 490, *Statutes of Nevada 1999*). Assembly Bill 606 established the severe financial emergency fund, while S.B. 473 created a procedure for dissolution or disincorporation of certain local governments in a severe financial emergency, under certain circumstances.

Concluding, Mr. Ziegler said that according to testimony during the 2001 Session for S.B. 472 (Chapter 44, *Statutes of Nevada 2001*), which provided for the disincorporation of Gabbs, a "severe financial emergency" was declared by the Department of Taxation at a meeting with the Nevada Tax Commission on October 4, 1999. He said the Department of Taxation assumed management of the City of Gabbs and determined that increasing property taxes would not be sufficient to balance the city's budget, which included a \$500,000 debt for its water system. Despite the financial condition of the city, there was a perception that the citizens of Gabbs might not support a vote for its

disincorporation. This perception resulted in the creation of S.B. 472, which, when passed, resulted in the disincorporation of Gabbs on May 8, 2001.

Senator O'Connell noted that the county in which the City of Gabbs is located volunteered to assume the expenses from the city until its financial problems were resolved. She said that the residents of Gabbs agreed to disincorporate and agreed in the spirit of cooperation that it was an appropriate solution based on the decreasing population of the area.

**PRESENTATION CONCERNING REQUIREMENTS
TO ESTABLISH BOUNDARIES AND CONDUCT SURVEYS
WHEN AN UNINCORPORATED TOWN IS FORMED,
WHEN A SUBDIVISION IS ANNEXED TO AN UNINCORPORATED TOWN,
OR WHEN AN INCORPORATED CITY IS FORMED IN NEVADA**

David S. Ziegler

David S. Ziegler, previously identified in these minutes, distributed a document that listed the boundary and survey requirements in the NRS (**Exhibit B**). He listed the procedure for incorporation of general law cities and said the first step is to determine a description of the area that is proposed for incorporation. Second, a sample ballot is mailed to the voters in the proposed area and the ballot must contain a description of the proposed boundaries. If voters approve the incorporation of the general law city, then a professional land surveyor would prepare a legal description of the boundary.

Continuing, Mr. Ziegler listed the procedure for forming an unincorporated town according to Chapter 269 of the NRS, "Unincorporated Towns." He said the first step is the preparation and submission of an initiative petition to the board of county commissioners. The initiative petition must describe the boundaries of the proposed area. If the petition is received, then a town can be created by ordinance or by the voters. In both instances, the ordinance or the ballot question must describe the boundaries of the proposed town only and no survey is required. However, a survey is required if an unincorporated town in any county in Nevada other than Clark County decides to perform an annexation.

Concluding, Mr. Ziegler explained that there are differing interpretations of the survey requirement. The Research Division of the LCB maintains that the term "survey" has generally carried the connotation of a physical survey conducted by a licensed land surveyor. He introduced Rita Lumos, Chairman of the Nevada State Board of Professional Engineers and Land Surveyors, and City Surveyor, City of Las Vegas.

Rita Lumos said she is a professional land surveyor and has approximately 40 years of experience. She said there are "great inconsistencies" in the current models of different types of cities. For example, the annexation of unincorporated cities requires "an accurate map" be prepared by a "competent surveyor or engineer." She said that "competent" does not require licensure nor does the current law require a physical survey.

Continuing, Ms. Lumos explained that a perfect description of land includes a boundary, also called a "section line," that contains a naturally occurring physical boundary, such as the line of a river or mountain range. She said that technology changes over time and so does the value of measurements. According to federal law, the position of section lines in the public lands system is unchangeable once those lines are physically monumented by government surveys. Ms. Lumos said that the City of Las Vegas prefers to keep annexation descriptions as generic as possible, for example, by section, by subdivision name, or other easily identifiable pieces of land. She said the developer oftentimes makes the final determination of boundaries.

Further, Ms. Lumos said Nevada law does not require a survey for the incorporation of a city, but it requires a legal description containing metes and bounds, which are references of distances to adjoiners or physical monuments. She said a survey is required for annexing land to an unincorporated town, and she opined that this mapping requirement coincides with taxation purposes because every local government is required to annually file a map showing the boundaries of the town.

Concluding, Ms. Lumos said the requirement for a physical survey could be considered an unnecessary expense when

both the intent and area are clearly shown in physical records. She said it is the responsibility of the developer to provide accurate surveys.

Responding to a question by Senator O'Connell, Ms. Lumos explained that federal law dictates that the position of section lines are unchangeable once they have been physically monumented by government surveys. However, these monuments are hard to recover because they are the result of land surveys completed a hundred years ago. She said these types of land surveys are the most time consuming and potentially the most expensive to perform. Additionally, the Federal Government is responsible for the original delineation of section lines in a public lands state. Ms. Lumos said those surveys began in 1785 and continue today. She suggested that NRS Chapter 268, which contains the requirements for an annexation map, should clarify the definition of a competent surveyor to include a professional licensure requirement.

Public comment on surveys and boundaries then ensued and included the following:

Tim Hafen

Tim Hafen, citizen, Pahrump, and member of the Advisory Committee to the A.B. 381 Subcommittee, distributed copies of a map (**Exhibit C**). He stated that requiring a physical survey of the boundaries of Pahrump is "unreasonable and onerous," and he prefers permissiveness in the law requiring boundary descriptions. He discussed the dimensions of the valley surrounding Pahrump and said a physical survey of the boundaries of Pahrump, inclusive of 80 miles, could cost "in excess of half a million dollars." Mr. Hafen expressed concerns for possible illegal annexations by Nye County, which may contribute to increased brothel activity in the southern part of the valley surrounding Pahrump. He said this area of concern is known as "Unit 14."

Paul Willis

Paul Willis, citizen, Pahrump, said it is "irresponsible not to have a survey performed" because the boundaries of Pahrump are currently defined by description only. He said there are no monitors or markers left behind to establish consistency in surveys throughout the area surrounding Pahrump. Referring to personal experiences with boundary disputes, Mr. Willis recounted litigation in the late 1980s, which required that he defend himself as a landowner because his survey was in conflict with the City of North Las Vegas. He said landowners in the northwest section of that city were sued by the City of North Las Vegas, and he lost land as a result of a legal decision. He recommended that a proper survey be conducted in Pahrump and the surrounding area to eliminate the potential for similar lawsuits. He shared his opinion of the Unit 14 issue and concluded by stating, "putting together a hodge-podge of surveys and calling it a legitimate map is irresponsible."

Ms. Lumos explained to the subcommittee the details of the lawsuit referred to by Mr. Willis. She said a judge ultimately determined that the property lines were set according to the lines of occupation and the decision affected eight sections of land. The City of North Las Vegas paid approximately \$1 million in legal fees in this endeavor only to have the decision challenged by the Bureau of Land Management, United States Department of the Interior, after it was determined that the judge could not award federal land to citizens. After some negotiation, the land was made available for purchase by the City of North Las Vegas at the 1982 appraised value. After the purchase, the city restored the land to each property owner in the eight sections. Ms. Lumos said this situation occurs frequently, and she is currently working on a boundary line adjustment survey involving 97 parcels.

Responding to a question by Senator O'Connell, Ms. Lumos said that a property owner can hire a licensed surveyor to determine the location of property lines. However, in cases where there is a lack of evidence (for example, survey markers destroyed by time), those discrepancies must be adjudicated. Disciplinary action can be taken against a surveyor, but this does not address the civil matter of the dispute. Ms. Lumos said that proper evidence includes testimony given by an expert surveyor.

Mr. Willis added that the lack of proper evidence is the heart of the issue. He said all of the old monuments or markers have disappeared with time. Since these markers once determined an accurate survey, the absence of this physical evidence has only created the opportunity for repeated disputes. He recommended that an accurate survey be performed to provide security to the landowners and added that communities "having the appetite for annexation should bear the responsibility of making it right." He suggested that all forms of government within Nye County be accountable and responsible and end the practice of selective enforcement of the NRS.

Mr. Hafen noted that the U.S. Geological Survey (USGS), U.S. Department of the Interior, found many existing monuments in its survey of Pahrump and the surrounding valley. He said these are the original monumentation used as reference points, and Nye County has currently contracted an engineering survey company to set the six corners of the valley containing Pahrump. He noted that the discussion regarding inaccurate surveys applies to boundaries within the town and inside of private property, not the boundaries of Pahrump and the surrounding valley. He said that private interests are “pushing” for the survey of the area to be completed to keep the annexation of Unit 14 legal.

Sylvia Beaman

Sylvia Beaman, citizen, Pahrump, said taxpayers who own land have no protection against bad surveys and must spend their own funds to settle legal disputes over property lines. She said the county assessor’s office fails to provide notice to property owners when recorded maps are filed against their land. In many cases, unbonded, uninsured surveyors file recorded maps, and the financial burden of disproving them falls on the property owner. She said, “Hundreds of recorded maps go through the regional planning commission.” Additionally, she said it is the responsibility of the Nye County Assessor to sign the record of surveyors; however, the county surveyor physically resides in Ely, Nevada, was hired on a temporary basis in 1987, and operates out of an office. She said, “There is no one looking out for the best interest of the taxpayer in Nye County.” She recommended that a survey map of the area be performed.

Bernard Michael Mackelmary

Bernard Michael Mackelmary, citizen, Pahrump, shared details of boundary line disputes on his land as an example of how landowners are faced with many unknown variables. He said he hired a land surveyor at the time he purchased his property and did not assume that he needed to pay for a survey of a public road bordering his property. However, the location of the road was under dispute between a utility company and the county, so his property boundary line is dependent upon one of two interpretations from conflicting surveys. He said the dispute has not been settled yet and recommended that a survey be performed in Pahrump Valley. He added that a survey of Pahrump would not be as expensive as what previous testimony indicated.

Liz Kerby

Liz Kerby, citizen, Pahrump, said testimony at the meeting indicated the need for more stringent laws requiring surveys of all cities and towns in Nevada. She expressed concerns for current survey requirements in NRS Chapter 269 and for the area that was annexed from Clark County and is due to be annexed to Pahrump. She said she “does not want to see that whole thing languish for another two years in the hopes that the next Legislature will get rid of the survey requirement.”

Ron Williams

Ron Williams, Director of Planning, Nye County, said he oversees the contract for the current town survey for land that was granted to Pahrump from the Legislature. He admitted that there are survey problems in Pahrump Valley but noted that the phenomenon occurs statewide. Mr. Williams referred to Exhibit C and explained that the county commissioners decided to oversee an annexation process as opposed to letting the Pahrump Town Board manage it. He said he is responsible for the oversight of the survey and upon its completion he will file the maps with the offices of the county assessor, clerk, and recorder, and with the Department of Taxation. He said the contract to survey the valley surrounding Pahrump was awarded to a firm with the appropriate experience, and although the original cost of the survey doubled, it will never approach half a million dollars.

Responding to a question by Senator O’Connell, Mr. Williams explained the process of filing a private survey map of record with the county. He said it was true that the Nye County Surveyor resided in Ely and “was not around all that much,” but he explained that the county surveyor functions to provide a degree of oversight to the private surveyor who is working for a private citizen. The county surveyor’s function is to review a proposed map of record and determine if it is technically correct, while the court decides issues involving boundary conflicts. He said that boundary disputes involving public roads are assigned a Nye County public works staff member to determine which map is closest to existing roads and boundaries.

Lorrin Peterson

Lorrin Peterson, citizen, Pahrump, said he assisted with the incorporation issue in Pahrump and noted a common fear of many citizens was the cost of a survey after incorporation occurred. He said the uncertainty of the citizens should be addressed and all questions be answered before incorporation is attempted again in Pahrump.

Mr. Willis commented that residents are justifiably concerned because of the history of Unit 14, which was originally annexed in 1987. The issue was dropped and never finalized until late 2001 when Unit 14 was re-annexed. He said the deviation from the timeline supports the sentiment “if something can be put off . . . then why hurry?”

PRESENTATION AND DISCUSSION OF A BILL DRAFT TO PROVIDE FOR THE INCORPORATION OF TOWNS IN NEVADA

M. Scott McKenna

M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division, LCB, referred to the first version of a 46-page bill draft written at the direction of the A.B. 381 Subcommittee (**Exhibit D**). He highlighted the following points:

- Cross referencing the bill draft into existing sections of NRS will be performed later;
- The bill draft contains two principles, which were stressed during previous meetings of the subcommittee and the advisory committee: (1) the creation of an incorporated town should not be effortless and undemanding; and (2) a new type of local government should not be able to exercise power without having the associated responsibility.
- The consolidated tax issue was addressed in the bill draft by NRS 360.740, “Request of newly created local government or special district for allocation from account,” which pertains to new local governments created after July 1, 1998, and requires that a new government provide police service and two of the following three services: (1) fire; (2) parks; or (3) roads.
- A motivating reason for a community to incorporate into a town is the flexibility in what services it will provide. The procedure to create an incorporated town is substantially the same as incorporating a city.
- There is a six-step process of incorporation for a community to follow:
 1. A group of people form a committee and file notice of their intent with the county clerk;
 2. A petition threshold for sufficiency requires a minimum of 15 percent of signatures of the electors residing in the area to be incorporated, and a secondary requirement is that the persons signing the petition must collectively own at least 5 percent of the assessed value of the property to be incorporated;
 3. The sufficiency of the petition is determined, and the committee is allowed one amendment. The county clerk then certifies the petition as sufficient or insufficient;
 4. The county board requests a report from the Committee on Local Government Finance, which is created pursuant to NRS 354.105, “Creation: appointment of members,” and sends copies of the petition to the Department of Taxation, planning entities, and other local governments affected by the proposed incorporation;
 5. A hearing is held; and
 6. An election is held in the area of the proposed incorporation.
- Step No. 4 can empower the county board to accept or reject the proposed incorporation. With acceptance,

only a simple majority vote of the people is required. With rejection, there is no veto power; the people can still vote to incorporate, but a super majority vote is required.

- The population density issue of the area proposed for incorporation will be considered if a town is being incorporated in Clark or Washoe Counties. Population densities will not be considered in rural areas.
- The consolidation of general improvement districts (GIDs) during incorporation of towns is determined by geography. In cases where a GID is partially in or out of the area to be incorporated as a town, that GID would be entirely included or excluded in the boundaries of the town. This point does not work with the scenario of a countywide GID.
- An incorporated town does not have to provide all of its services itself but could have them arranged for by another local government.
- Other affected local governments will have input into the process.
- The structure of an incorporated town is modeled after the provisions found in NRS Chapter 266.

Concluding, Mr. McKenna stressed that the bill draft is crafted to allow an incorporated town flexibility to conduct its affairs and does not contain stringent procedural requirements.

Comments on Mr. McKenna's presentation included the following:

Claudette Springmeyer

Claudette Springmeyer, Douglas County Comptroller, Minden, Nevada, and a member of the Advisory Committee to the A.B. 381 Subcommittee, referred to a memo and comments from the Douglas County District Attorney's Office (**Exhibit E**). She made the following suggestions to the bill draft: (1) include provisions for overlapping GIDs, which are problematic in Douglas County; (2) empower the board of county commissioners with the ability to begin the process of incorporation without a petition initiated by the people; (3) require incorporated towns to provide services that mirror what the county already has in place for land use planning and zoning; (4) stagger the terms of council members; (5) alternate hours of operation; and (6) determine revenue sources for areas that have reached their tax caps.

Janet Murphy

Janet Murphy, Administrator, Tahoe Douglas District, Zephyr Cove, Nevada, and a member of the Advisory Committee to the A.B. 381 Subcommittee, referred to Ms. Springmeyer's document and stated that she opposes any method to allow incorporation of towns without a petition process.

Bob Spellberg

Bob Spellberg, District Manager, Gardnerville Ranchos GID, Nevada, and a member of the Advisory Committee to the A.B. 381 Subcommittee, made the following suggestions to the bill draft: (1) permit incorporated towns to increase police protection if the town can also provide funding; (2) maintain the current rules for providing services; (3) sustain the services to match what is currently provided; (4) allow certain fee structures such as licensing fees, gaming taxes, and liquor taxes to be granted to incorporated towns; (5) let incorporated towns assist in providing certain social services and enter into local agreements with the county if it is determined that the county could not afford to provide that service without assistance; and (6) encourage franchise agreements for certain services such as garbage collection.

Responding to a question by Mr. Spellberg on population densities, Mr. McKenna explained that although population density is something that is looked at if the proposed incorporated town will be located in Clark or Washoe County, the fact that a proposed incorporated town is in a county other than Clark or Washoe would not prevent such a town from incorporating. Pursuant to subsection 4 of section 5 of the draft (relating to requirements for the area to be incorporated as a town), population density is not looked at if the area to be incorporated is in a county whose

population is less than 100,000 (such as Douglas County).

Marvin Leavitt

Marvin Leavitt, citizen, Overton, Nevada, and a member of the Advisory Committee to the A.B. 381 Subcommittee, acknowledged the financial difficulties of incorporating a town. He said the solution would relate to how the consolidated tax issue was resolved, including any distributions from that tax. He noted that establishing a GID is not an easy task now because the rules are more stringent. He cautioned that allowing incorporated towns access to consolidated taxes would only result in extracting funds from another local government. He suggested that new levels of government have access to consolidated taxes only if they provide all four basic public services.

Mr. Leavitt suggested additional topics for discussion by the subcommittee, including: (1) addressing GIDs with boundaries greater than the proposed area of incorporation; (2) eliminating the “proliferation of single purpose governments,” which receive a guaranteed amount of funding but provide limited services; and (3) developing a general purpose government.

DISCUSSION OF OTHER ISSUES CONCERNING INCORPORATED CITIES AND UNINCORPORATED TOWNS IN RELATION TO THE INCORPORATION OF TOWNS IN NEVADA

There was no discussion on this topic.

PUBLIC TESTIMONY

The following citizens contributed to public testimony:

Lee Hanes

Lee Hanes, coordinator, Pornography Only In Zone (P.O.I.Z.), Las Vegas, said most governments do not effectively represent all aspects of society because they are too large, too geographically dispersed, too economically contradictory, and too culturally diverse. As a result, it is his perception that there are different standards within communities throughout Nevada, which result in the proliferation of pornography in neighborhoods. He said there is a “world wide perception of Las Vegas being sin city, U.S.A.” and it is difficult to successfully prosecute a pornographer in Las Vegas because of the attitude that “anything goes.” However, Mr. Hanes said a group of citizens interested in fighting pornography came together and submitted a bill draft request (BDR) that was very similar to the subcommittee’s bill draft in an effort to restructure local government and make it stronger as a community of common interest and standards. He said his BDR failed because it was “unconstitutional.”

Mr. Hanes said that communities must be defined and different interests acknowledged. He said that Nevada needs “an easier way to incorporate towns and cities” and applauded the subcommittee’s efforts as a “step in the right direction.” He said he supported the bill draft and hoped to find a way for it to complement the goals of P.O.I.Z.

Mr. Hanes concluded by pointing out that the art of surveying land dates back to Egyptian civilizations, and sections should be measured according to latitude, longitude, minutes, and degrees, not by USGS markers. He recommended that past errors be corrected and that land developers be held to higher standards.

Paul Willis

Paul Willis, previously identified in these minutes, commented on the provision in the bill draft that requires that a county board designate a date on which an election is held. He said that it would be more appropriate to hold the petition election at the time of the regular general election. Additionally, he suggested a two-year waiting period before residents can resubmit a petition once it is withdrawn. Mr. Willis said Pahrump has successfully defeated the ballot to incorporate as a city on three occasions and now a waiting period should be imposed.

Liz Kerby

Liz Kerby, previously identified in these minutes, said that most of the cities in Nevada are classified as charter cities not incorporated under general law. She said NRS Chapter 266 is “circumvented when a charter city has its charter approved by the Legislature, which theoretically can be done without a vote of the people.” She questioned if incorporated towns would have the ability to have a charter approved, an ability that incorporated cities currently possess.

Mr. McKenna responded no and explained that the only law on incorporated towns would be a new separate chapter in the NRS that involves the bill draft. He said there is currently no mechanism by which an incorporated town could suddenly exist through an act of the legislature.

Concluding, Ms. Kerby suggested that the incorporation of towns be “streamlined” into existing legislation without the creation of a new chapter in the NRS.

Charlie Gronda

Charlie Gronda, Airport Planning Director, Town of Pahrump, said he was president of the Pahrump Cityhood Association, which campaigned to incorporate Pahrump in the October 2000 election. He provided members with a copy of the incorporation information package regarding that campaign (**Exhibit F**).

Lorin Peterson

Lorin Peterson, previously identified in these minutes, said his research into the issue indicated that an alternative to city and town governments is to “let the county run everything.” He said that Nye County should seek uniformity in its types of communities because “Nevada is full of lots of poor counties and a few rich counties.” He identified a common problem of the town board form of government as the “lack of real power to exact any changes.” Mr. Peterson said it was his understanding that many residents of Pahrump did not vote for incorporation into a city because the proposed boundaries were too large.

Responding to a question by Mr. Peterson regarding tax advantages of incorporated towns versus unincorporated towns, Senator O’Connell explained that the philosophy to compete with other governments was a choice made by an area interested in increasing its own tax base. She said the Legislature does not promote forcing governments to compete against each other.

Bill Green

Bill Green, citizen, Pahrump, said he witnessed Pahrump residents defeat the ballot question to incorporate as a city four times within the last 18 years. He said he attempted to educate residents at each election and was proactive in each campaign to incorporate. Mr. Green said he supports the idea that changes in local government are by the vote of the people and said he is against the “chartering in of a city.”

Ed Beaman

Ed Beaman, citizen, Pahrump, referred to the bill draft and asked for clarification why the number of signatures needed on a petition to incorporate was changed from one-third to 15 percent? He pointed out that a one-third requirement is more representative of the majority of residents.

Mr. McKenna explained that the 15 percent was the decision of the advisory committee.

Sylvia Beaman

Sylvia Beaman, previously identified in these minutes, asked the subcommittee to consider the people whose lives will be affected by new legislation. She said she would consider the incorporation of Pahrump into a town if there were some true benefits to its taxpayers.

Bernard Michael Mackelmary

Bernard Michael Mackelmary, previously identified in these minutes, stated that references to “Pahrump Valley” were incorrect and referred to the geological basin that extends through Nye County, parts of Clark County, and into California. He also commented on the need for a city to easily change its charter through the Legislature. He opined that there is no need for a separate NRS chapter because incorporated towns will behave similarly to incorporated cities.

Marvin Leavitt

Marvin Leavitt, previously identified in these minutes, explained that consolidated tax is comprised of two forms of sales tax, cigarette tax, liquor tax, automobile privilege tax, and real property transfer tax. He said that the amount of consolidated tax allotted to each individual town is determined by a formula.

Carole Vilardo

Carole Vilardo, President, Nevada Taxpayers Association, Las Vegas, expressed concerns for the population thresholds listed in the bill draft. She said that a population threshold of 3,000 is “strange” because the majority of cities in Nevada do not have a population of 3,000. She gave historical perspective on why Nevada needs another level of government saying that the idea formed when single and dual purpose GIDs with populations of 10,000 wanted more urban-type services than county general services. Also, disincorporating Gabbs required some form of “transition down” to the next lower level of government, but was the next level appropriate for the population?

Concluding, Ms. Vilardo cautioned against forming “islands” within counties and recommended language that specified “contiguous boundaries” for incorporated towns. Finally, she said that provisions for estimating cost and taking a portion of the property tax rate is an important issue to clarify in the bill draft.

Walt Kuver

Walt Kuver, citizen, Pahrump, refuted earlier testimony that indicated NRS Chapter 269 is applicable to Pahrump. He said NRS Chapter 269 is based on populations less than 7,500 and is not applicable to Pahrump.

ADJOURNMENT

Chairman Bache directed the advisory committee to meet again before April 26, 2002, and review the bill draft. He thanked Mr. McKenna for his efforts in crafting the document.

There being no further business to come before the committee, Chairman Bache adjourned the meeting at 1:10 p.m. Exhibit F is the “Attendance Record” for this meeting.

Respectfully submitted,

Kennedy
Senior Research Secretary

Marla McDade Williams
Senior Research Analyst

APPROVED BY:

Assemblyman Douglas Bache, Chairman

Date: _____

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LIST OF EXHIBITS

Exhibit A is a four-page memorandum with a six-page attachment dated March 22, 2002, to the Chairman and Members of the Study to Develop Enabling Legislation for the Creation of Incorporated Towns Pursuant to Assembly Bill 381 (Chapter 538, *Statutes of Nevada 2001*), titled “Background Information Concerning a Means to Disincorporate a City When the City is No Longer Fiscally Viable,” from Marla L. McDade Williams, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), Carson City, and presented by David S. Ziegler, Principal Research Analyst, Research Division, LCB, Carson City, Nevada.

Exhibit B is an eight-page memorandum with an 11-page attachment dated March 18, 2002, to the Chairman and Members of the Study to Develop Enabling Legislation for the Creation of Incorporated Towns in Nevada, titled “Boundary and Survey Requirements in the *Nevada Revised Statutes*,” from Marla L. McDade Williams, Senior Research Analyst, Research Division, LCB, Carson City, and presented by David S. Ziegler, Principal Research Analyst, Research Division, LCB, Carson City, Nevada.

Exhibit C is a four-page document containing a map of Pahrump and Nye County Ordinance No. 243, submitted by Tim Hafen, Pahrump, Nevada.

Exhibit D is a 46-page document titled “Legal Draft Summary—Provides for creation and administration of incorporated towns,” and a five-page document titled “Equivalence & Purpose of New Language Sections of Bill Draft on Incorporated Towns,” presented by M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division, LCB, Carson City, Nevada.

Exhibit E is a six-page package of information including a memo dated March 22, 2002, to Assemblyman Doug Bache and Members of the A.B. 381 Committee, titled “Bill Draft for the Incorporation of Towns in Nevada, Agenda Item No. VI,” from Claudette Springmeyer, Douglas County Comptroller/Administrate Services Director, Minden, Nevada.

Exhibit F is a 26-page document dated October 2000, and titled “Incorporation Information Package Pahrump Cityhood Association,” with a 17-page attachment titled “Pahrump Cityhood Association, Inc.,” submitted by Charlie Gronda, Airport Planning Director, Town of Pahrump, and President of the Pahrump Cityhood Association.

Exhibit G is the “Attendance Record” for the meeting.

Copies of the materials distributed in the meeting are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the library at 775-684-6827.