

**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*)
April 26, 2002
Carson City, Nevada**

The third 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 Friday, April 26, 2002, at 10 a.m., in Room 3138 of the Legislative Building in Carson City, Nevada. This meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Pages 2 and 3 contain the "Meeting Notice and Agenda."

COMMITTEE MEMBERS PRESENT IN CARSON CITY:

Assemblyman Douglas A. Bache, Chairman
Senator Michael Schneider
Assemblyman David E. Humke
Assemblyman P.M. "Roy" Neighbors

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Ann O'Connell

COMMITTEE MEMBER PRESENT VIA TELEPHONE:

Senator Jon C. Porter

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marla McDade Williams, Senior Research Analyst, Research Division
M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division
Kennedy, Senior Research Secretary, Research Division

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, *Statutes of Nevada 2001*)

Date and Time of Meeting: Friday, April 26, 2002
10 a.m.

Place of Meeting: Legislative Building
Room 3138
401 South Carson Street
Carson City, Nevada

Note: Some members of the subcommittee may be attending the meeting and other persons may observe the meeting and provide testimony, through a simultaneous videoconference conducted at the following location:

Grant Sawyer State Office Building
Room 4401
555 East Washington Avenue
Las Vegas, Nevada

If you cannot attend the meeting, you can listen to it live over the Internet. The address for the legislative web site is <http://www.leg.state.nv.us>. For audio broadcasts, click on the link "Listen to Meetings Live on the Internet."

A G E N D A

I. Opening Remarks

Assemblyman Douglas A. Bache, Chairman

- *II. Approval of the Minutes of the Subcommittee's Meetings Held on November 8, 2001, in Las Vegas, Nevada, on March 25, 2002, in Pahrump, Nevada, and Minutes of the Advisory Committee Meeting Held on April 15, 2002, in Las Vegas

- III. Presentation of Recommendations Concerning the Bill Draft to Provide for the Incorporation of Towns in Nevada and of Other Issues That Are Ancillary to the Study

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

- IV. Public Testimony on Recommendations Discussed in Item III of the Agenda

- *V. Discussion and Possible Adoption of Recommendations

- VI. Public Testimony

- VII. Adjournment

*Denotes items on which the subcommittee 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 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 web site at www.leg.state.nv.us.

OPENING REMARKS

Chairman Douglas A. Bache called the meeting to order at 10:06 a.m. and directed the secretary to call roll.

APPROVAL OF THE MINUTES OF THE SUBCOMMITTEE'S MEETINGS HELD ON NOVEMBER 8, 2001, IN LAS VEGAS, NEVADA, ON MARCH 25, 2002, IN PAHRUMP, NEVADA, AND MINUTES OF THE ADVISORY COMMITTEE MEETING HELD ON APRIL 15, 2002, IN LAS VEGAS

SENATOR O'CONNELL MADE A MOTION TO APPROVE THE MINUTES OF THE

SUBCOMMITTEE'S MEETING HELD ON NOVEMBER 8, 2001, IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY SENATOR SCHNEIDER AND CARRIED UNANIMOUSLY.

SENATOR O'CONNELL MADE A MOTION TO APPROVE THE MINUTES OF THE SUBCOMMITTEE'S MEETING HELD ON MARCH 25, 2002, IN PAHRUMP, NEVADA. THE MOTION WAS SECONDED BY SENATOR PORTER AND CARRIED UNANIMOUSLY.

SENATOR PORTER MADE A MOTION TO APPROVE THE MINUTES OF THE ADVISORY COMMITTEE MEETING HELD ON APRIL 15, 2002, IN LAS VEGAS. THE MOTION WAS SECONDED BY SENATOR O'CONNELL AND CARRIED UNANIMOUSLY.

PRESENTATION OF RECOMMENDATIONS CONCERNING THE BILL DRAFT TO PROVIDE FOR THE INCORPORATION OF TOWNS IN NEVADA AND OF OTHER ISSUES THAT ARE ANCILLARY TO THE STUDY

Marla McDade Williams

Marla McDade Williams, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), Carson City, Nevada, referred to the Work Session Document (**Exhibit A**), and explained that it contains a summary of recommendations presented to the subcommittee through correspondence and public hearings. Further, the recommendations listed in Exhibit A do not necessarily have the support or opposition of the subcommittee. She reviewed each of the 62 suggested amendments.

Responding to a question from Assemblyman Neighbors, M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division, LCB, Carson City, discussed revenue sources contained in the bill draft, noting:

- The ability of an incorporated town to impose an ad valorem tax will depend on the outcome of the \$3.64 cap issue;
- General improvement districts (GIDs) absorbed into an incorporated town are required to pass its revenues to the incorporated town; and
- Pursuant to *Nevada Revised Statutes* (NRS) 360.740, "Request of newly created local government or special district for allocation from account," new local governments created after July 1, 1998, can gain a portion of the consolidated tax. An incorporated town could not obtain a portion of the consolidated tax without providing certain services, including, police, roads, and a combination of other services.

**PUBLIC TESTIMONY ON RECOMMENDATIONS
DISCUSSED IN ITEM III OF THE AGENDA**

Jim Spinello

Jim Spinello, resident of Clark County, Nevada, and representing the Nevada Association of Counties (NACO), expressed concerns with the current version of the bill draft and said NACO's board of directors voted to "oppose the bill as it is currently written." He said NACO's board of directors made that decision on April 12, 2002, which was prior to the final meeting of the advisory committee on April 15, 2002.

Chairman Bache commented that it was never his intent to impose costs or financial losses on counties. Additionally, he noted that the suggested amendments from the advisory committee and citizens appear to make incorporating as a town very difficult. He asked Mr. Spinello for an explanation.

Mr. Spinello said that NACO's "objection is not simply over the issue of money, although it is certainly a part of it." He explained that an incorporated city takes on municipal authorities and responsibilities, but the bill draft allows an

incorporated town a specialized jurisdiction with limited authority that could still impose costs on others outside of its jurisdiction.

Concluding, Mr. Spinello said that NACO is under the impression that the Legislature is urging them to be more cooperative, particularly in the areas of land use and planning. However, he pointed out that the bill draft could create a “virtual balkanization of these urban areas by smaller enclaves.” He gave several scenarios regarding his perceptions of how smaller enclaves might behave with a “fortress mentality.” Mr. Spinello expressed concern for the failure of the advisory committee to arrive on consensus on proposed amendments and said he would have preferred to offer the subcommittee a majority or minority ruling on each recommendation.

Assemblyman Humke stated his opposition to NACO’s recommendation to exclude Clark and Washoe Counties from the bill draft and said he would not support the exclusion of northern Nevada’s largest county in the opportunity for areas to incorporate into towns.

Claudette Springmeyer

Claudette Springmeyer, Comptroller, Douglas County, Minden, Nevada, distributed a memorandum from Daniel C. Holler, Douglas County Manager (**Exhibit B**) and read:

Over the past several years, special districts and GIDs within Douglas County have moved to balance existing revenue streams to fund the specific services for which the GID was created. At this point in time the majority of GIDs in Douglas County are sustainable, viable units of government, which provide adequate services to the residents in their service area. It is our goal that this system of providing government services continues in the most efficient manner as possible. We do not see a benefit to Douglas County resulting from the creation of a new layer of government, which would basically be providing the same scope of services as is currently provided to residents today.

We applaud the work that has been done, the dialog and discussion overall has been beneficial in the review and analysis of how we provide governmental services. However, after doing so it is our conclusion that the system within Douglas County is currently working well and therefore, we do not support moving forward with new legislation as it does not seem to be warranted, as it would apply to Douglas County.

Responding to comments from Chairman Bache, Ms. Springmeyer said that Douglas County has a unique situation with overlapping districts because entire valleys are included in some district boundaries. She said there are complexities within the issue of providing services in overlapping districts that should be addressed with specific language in the bill draft. Further, she agreed with Chairman Bache’s comment that the bill draft needs to define which entity provides which service to avoid two entities duplicating services while both “take a bite of the tax rate.” She said that it would not be a “dollar-for-dollar trade off” of services because of the overlapping administrative costs.

John Sherman

John Sherman, Finance Director, Washoe County, Reno, Nevada, said the Washoe County Board of Commissioners “generally supported the NACO position” but wanted several changes to the bill draft in Sections 5, 7, and 8. Additionally, he suggested that incorporated towns in counties with populations of 100,000 to 400,000 be subject to state laws regarding regional planning (**Exhibit C**). Mr. Sherman said the Washoe County Board of Commissioners specifically expressed support for Recommendation Nos. 13, 14, 15, 20, and 21 in the Work Session Document.

Lee Wayne Haynes

Lee Wayne Haynes, coordinator, Pornography Only In Zone (P.O.I.Z.), Boulder City, Nevada, said that P.O.I.Z. recognizes the proliferation of pornography in Nevada neighborhoods due to: (1) the inclination of juries to rule in favor of “community standards” that permit pornography; (2) the consistent message nationally and internationally that Las Vegas is “sin city”; and (3) the failure of law enforcement to uphold obscenity standards in Clark County. Mr. Haynes read his recommendation for language to be added to the bill draft and said it offers a remedy to the pornography problem (**Exhibit D**):

By notification and recording with the county within which it will be located one hundred or more adult residents of a defined geographical area may give notice that they have established a community of common interests and standards.

The recorded document will be entitled articles of notification. It will give the name of the community and the geographically defined boundaries thereof. It will make a declaration of the interests and standards held in common and of the intent of the establishers to form the community. It will bear the printed names, the residential addresses and the signatures of the adult residents establishing the community.

Upon the date it is recorded, the community will be established and have perpetual existence. It will not be dissolved due to the death or change of residence of one or more or all of the establishers.

The establishment of a community of common interests and standards will confer no additional rights or responsibilities upon the residents thereof. It is the notice by the residents thereof of the common interests and standards that bind them together as a community and all costs of establishing and recording of the community will be borne by the establishers thereof.

Concluding, Mr. Haynes said that the proposed language will ensure the existence of smaller and restrictive communities of common interest and standards, created by the citizens.

June Ingram

June Ingram, P.O.I.Z., Las Vegas, commented that communities in Nevada will not be protected from pornography unless language is included in the bill draft that allows residents to join together according to their common interests and standards. She said she supports Mr. Haynes' remarks.

Rebecca Harold

Rebecca Harold, citizen, Fernley, Nevada, expressed concerns for "a fundamental flaw" in the bill draft. She opined that the advisory committee is as confused as she is regarding the need to create a new governmental entity. She said "a city is a city . . . there are going to be a vast variety of different types of towns that [will not] all act, look, or function the same."

Concluding, Ms. Harold referred to the 62 amendments and said they cannot be reconciled because they are contradictory. She said the basic fundamentals of the subcommittee's work remains unclear and she has never received answers to: (1) what is the purpose of this study and how many services would or could be taken over by an incorporated town?; (2) which of those services must be provided or could be arranged?; and (3) where is the thorough analysis of the services that are provided by one town and not another? She suggested that the subcommittee examine the interrelationships of services in terms of how they are administered, their cost, and their impacts on residents and other communities. Ms. Harold told subcommittee members that the "purpose is laudable, but you are creating a whole host of problems, you are not solving any problems."

Chairman Bache responded to Ms. Harold's remarks by saying there are a number of small cities in Nevada that cannot afford to provide all the desired services. He said that some cities' resources are stretched to the point that they will no longer be a city. An incorporated town offers cities in this situation an interim level between being a city and being unincorporated. He said an incorporated town is fiscally designed to offer certain services and have some control over zoning and planning, as opposed to having to offer all the services that a city provides. He said that he reviewed statutes from other states regarding incorporated towns and chartered townships and said this class of "city" was designed to provide some services without the expense of having to provide all services. He said this new level of government would benefit Nevada cities such as Ely, Yerington, and others in that same population range.

Mary Walker

Mary Walker, Lobbyist for Carson City, Douglas, and Lyon Counties, and residing in Minden, expressed concerns for the fate of three unincorporated towns in Douglas County, including Genoa, Minden, and Gardnerville, in the

event that the valley-wide district chose to incorporate as a town. She said that the bill draft specified a seven-mile distance between cities in counties with populations over 100,000, but the rural application offers no separation for unincorporated towns that become incorporated. She suggested the elimination of the 100,000 population cap so the mileage requirement in the bill draft could apply to rural entities. Additionally, Ms. Walker recommended that the board of county commissioners have veto authority.

Chairman Bache commented on the need for defining duties of counties and cities and examining the overlapping nature of them.

Robert Spellberg

Robert Spellberg, District Manager, Gardnerville Ranchos GID, Gardnerville, Nevada, expressed support for the bill draft and suggested limiting the creation of GIDs. He said that GIDs would then become special improvement districts for the possible creation of enterprise functions. This would allow for existing GIDs that provide general fund functions to have more control in their area, thus allowing better service to their residents.

Continuing, Mr. Spellberg said that incorporated towns should not duplicate the efforts performed by the county. He said that Douglas County has at least three districts that encompass the entire valley and said that Gardnerville Ranchos GID has the largest single population source with 11,000 residents and an assessed valuation of \$160,000,000. He said that pulling away GIDs and fire districts would result in a severe financial hardship. Mr. Spellberg suggested that the bill draft allow for the consolidation of contiguous GIDs into one entity to save administrative costs and provide one local governing body for the area.

Ivan Reno Ashleman II

Ivan Reno Ashleman II, Attorney at Law, Las Vegas, pointed out that existing law allows the consolidation of GIDs. He said he provided legal counsel during the consolidation of Crystal Bay and Incline Village GIDs.

Carole Vilardo

Carole Vilardo, Nevada Taxpayers Association, Las Vegas, said there is a need for incorporated town legislation because certain rural counties are becoming increasingly more urbanized since 1993, and it has subsequently created a “tug of war” with revenues. She said the issue demands closer examination and agreed with Chairman Bache’s efforts to address the issue.

Continuing, Ms. Vilardo said the creation of incorporated towns allows communities to “step up or step down if the city form of government is no longer viable.” She noted that Nevada currently has three levels of unincorporated towns and suggested that those areas having elected officials, such as Tonopah, Beatty, and Nye, be elevated to incorporated towns.

Further, Ms. Vilardo said the bill draft is workable but requires distinguishing points and specific delineation for the urbanized counties of Clark and Washoe. She said that Section 7 of the bill draft is confusing as it applies to some rural counties with urbanized pockets versus urbanized counties. She said it is easier for an area to form into a city than an incorporated town because: (1) current law allows the formation of a city with a population of only 1,000; and (2) there is no required sustainable assessed valuation to distinguish between residential-based populations and a mix of residential and commercial populations.

Concluding, Ms. Vilardo urged the subcommittee to reconsider the population thresholds listed in the bill draft and explained that she used figures of 3,000 to 10,000 to illustrate a point before the advisory committee. She said these figures are completely unrealistic and need to be revised; however, if the subcommittee members find these figures viable, then the law for the incorporation of a city should be changed to require population thresholds of 15,000 or 20,000.

Janet Murphy

Janet Murphy, Administrator, Tahoe-Douglas District, Zephyr Cove, Nevada, referred to her amendments listed in Exhibit A, Tab E, and stated:

I've been trying to figure out what the problem was to begin with, why are we creating new government? [I recommend] doing a parallel with the city, 15 percent going to the third, in all fairness. Also, rather than going through a petition process, could the county commissioners work directly with the board? In consolidating, I have great concern because I believe the process shouldn't be changed for any reason or for any purpose. I believe it should be left up to the taxpayers as a whole. I believe this [bill draft] was a tool also to do consolidation and the only problem I see is . . . with five GIDs, only three are successful in incorporating, then the other two are still left as individual GIDs, so therefore you're creating just all new government and all the mechanisms could change.

Joseph D. Rufo, P.E.

Joseph D. Rufo, P.E., and Chairman, Skyland GID, Zephyr Cove, offered support for Ms. Springmeyer's recommendations (Exhibit A Tab D) and said he was not in favor of the current bill draft. He spoke of Skyland GID's effectiveness and gave details regarding its programs and projects.

DISCUSSION AND POSSIBLE ADOPTION OF RECOMMENDATIONS

Several subcommittee members recommended that action on the Work Session Document be postponed until the next meeting.

In response to the suggestion of a member of the Subcommittee, Mr. McKenna said that he would provide another bill draft that included the proposed amendments to the subcommittee at its next meeting. He said that the 62 amendments mentioned in the Work Session Document represented a range of ideas, many of which were not specific. For example, in some cases, vague concerns were identified but no solution or alternative language was offered, and in other cases, the same entity submitted multiple documents with different amendments. He said the advisory committee did not reach consensus on the entity of an incorporated town or what services it would provide, but he said he would adjust the bill draft to present the variety of responses.

PUBLIC TESTIMONY

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There were no additional comments from the public.

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ADJOURNMENT

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The subcommittee members selected a meeting date of June 28, 2002, in Carson City, and designated it to be a work session. There being no further business to come before the committee, Chairman Bache adjourned the meeting at 12:30 p.m. Exhibit E is the "Attendance Record" for this meeting.

Respectfully submitted,

Kennedy
Senior Research Secretary

Marla McDade Williams
Senior Research Analyst

APPROVED BY:

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Date: _____
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LIST OF EXHIBITS

Exhibit A is a bound document containing the Work Session Document, recommendations, and supporting legislation. Arranged to correspond with the items on the meeting agenda, this document was prepared by Marla McDade Williams, Senior Research Analyst, Research Division, and M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division, Carson City, Nevada, for members' reference. Specifically:

- TAB A — contains “Legal Draft Summary—Provides for creation and administration of incorporated towns,” provided by M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), Carson City, Nevada;
- TAB B — contains a five-page document dated April 15, 2002, and titled “NACO Comments on Incorporated Town BDR-21 Draft,” provided by James Spinello, on behalf of the Nevada Association of Counties, Las Vegas, Nevada;
- TAB C — contains a two-page memorandum dated March 20, 2002, to Claudette Springmeyer, Comptroller, titled “Incorporated Town Bill Draft,” from Brian Chally, Chief Civil Deputy, Douglas County, Nevada;
- TAB D — contains two two-page memorandums dated March 22 and April 15, 2002, to Assemblyman Doug Bache and Members of the A.B. 381 Committee and Advisory Committee, titled “Bill Draft for the Incorporation of Towns in Nevada,” from Claudette Springmeyer, Douglas County Comptroller/Administrative Services Director, Minden, Nevada.
- TAB E — contains a memorandum dated April 12, 2002, to the advisory committee, titled “A.B. 381 BDR Recommendations,” from Janet Murphy, Administrator, Tahoe-Douglas District, Zephyr Cove, Nevada;
- TAB F — contains a copy of an electronic transmission from Walt Kuver, resident, Pahrump, Nevada; and
- TAB G — contains a document titled “Equivalence & Purpose of New Language Sections of Bill Draft on Incorporated Towns,” which was prepared by M. Scott McKenna, Principal Deputy Legislative Counsel, Legal Division, LCB, Carson City, Nevada. Also included is a copy of the statutes that are referenced in the bill draft, including additional copies of other statutes that are recommended for amendment in the Work Session Document.

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Exhibit B is a two-page memorandum dated April 26, 2002, to Assemblyman Doug Bache and Members of the A.B. 381 Committee and Advisory Committee, titled “Bill Draft for the Incorporation of Towns in Nevada,” from Daniel C. Holler, Douglas County Manager, and presented by Claudette Springmeyer, Comptroller, Douglas County, Minden, Nevada.

Exhibit C is a two-page document titled “Incorporated Towns Bill Draft — Washoe County Board of County Commissioners Comment/Suggested Changes,” submitted by John Sherman, Finance Director, Washoe County, Reno, Nevada.

Exhibit D is a one-page copy of testimony presented by Lee Haynes, Porn Only In Zone, Boulder City, Nevada.

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Exhibit E 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.