

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Fourth Session
March 28, 2007**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 8:02 a.m., on Wednesday, March 28, 2007, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 5100 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Kelvin Atkinson
Assemblyman Bob Beers
Assemblyman David Bobzien
Assemblyman Chad Christensen
Assemblyman Jerry D. Claborn
Assemblyman Pete Goicoechea
Assemblyman Ruben Kihuen
Assemblyman Harvey J. Munford
Assemblywoman Bonnie Parnell
Assemblyman James Settelmeyer
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblywoman RoseMary Womack (Excused)



GUEST LEGISLATORS PRESENT:

Assemblyman Tick Segerblom, Assembly District No. 9

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Brenda Erdoes, Committee Counsel
Mary Kay Doherty, Committee Secretary

OTHERS PRESENT:

Susan Fisher, representing the City of Reno
Seth Floyd, City of Las Vegas
Rebecca Wagner, Commissioner, Public Utilities Commission
Nancy Wenzel, Utilities Hearings Officer, Public Utilities
Commission
Judy Stokey, representing Nevada Power and Sierra Pacific Power
Pam Kowalski, representing Southridge Neighborhood Association
Kristen Stout, Private Citizen, Las Vegas, Nevada
Stewart Moyes, Private Citizen, Las Vegas, Nevada
Rob Joiner, Government Affairs Manager, City of Sparks
Kimberly McDonald, State Legislative Affairs Officer, City
Manager's Office, City of North Las Vegas
Jennifer Dunaway, Health Facility Surveyor IV, Bureau of Licensure
and Certification

[Meeting called to order and roll called at 8:02 a.m.]

Chair Kirkpatrick:

We will start with Assembly Bill 473.

Assembly Bill 473: Makes various changes relating to the preservation of existing neighborhoods. (BDR 22-368)

Assemblyman Tick Segerblom, Assembly District No. 9:

Assembly Bill 473 is designed for districts like mine, which are older neighborhoods where time has passed us by. They are being reinvigorated and people are moving back to them.

We are trying to make sure cities and counties do not destroy them in their effort to grow larger.

With respect to the first four sections of this bill, the theory is we as a State indicate our desire that cities and counties preserve and protect older neighborhoods. We encourage them through their planning process to do that.

What we are talking about is when they are trying to get traffic out to the suburbs where the new neighborhoods are, we do not want them to destroy the older neighborhoods in the process. They have to take into account the impact that has, such as widening the streets or making the traffic lights synchronized.

I am working on language with the Las Vegas City Attorney for Section 5. The theory is some neighborhoods in this have become so isolated and are so impacted by roads, et cetera, that they need to gate themselves or take protection that the city does not allow unless they privatize that neighborhood.

The City Attorney's position is if you want to privatize a neighborhood and put gates on it, you have to have 100 percent of the property ownership in that neighborhood agree upon it. It has been proven to be virtually impossible to have 100 percent agreement.

This bill would reduce the threshold to 80 percent. If 80 percent of the property owners signed up and said they wanted to privatize, it would allow the city to approve that process.

The final and most controversial section deals with the other element of older neighborhoods, which is trying to put utilities underground. The real difference between Summerlin and my area is if you drive down the street and look at the sky, you will see the ugliest array of power lines, cable lines, and telephone lines you could imagine. It seems like they keep adding to them. Those are inefficient, an eyesore, and they differentiate between a neighborhood built before 1980 and one built after 1980.

I am trying to encourage the cities and the counties to work with the utility companies to start putting the cables underground. This would not be in the basic neighborhoods themselves. It would be in the thoroughfares first and then move into the residential streets.

One of the things that happens in Clark County is when a new development goes in, the developer does not have to pay for the new schools. They do not have to donate land for schools, so our neighborhoods that have existing schools subsidize the developers to get their new schools paid for. This bill compensates for that by requiring those neighborhoods to pay more on their utilities to put our utilities underground.

Assemblyman Claborn:

The people in my neighborhood wanted to put a gate in our community. I live in a cul-de-sac with 11 other homes. They asked me to see what it would take.

The county tells me it is designated by the developer if it is a gated community or not.

The homes were built on small lots so the developers got a variance that made the lots bigger. This made the streets narrower. We do not have sidewalks or curbs.

The county said that all of our underground utilities are behind where the curb would be. The county said they could do that if we had the correct variance, but we ran into another problem. They wanted to take all of our fences out and go back three feet from the curb to bring the lots up to code because this variance would take us out of code.

The county measured from the middle of the street to the cul-de-sac where we would anticipate putting the gate. We cannot put the gate there because the tail end of a car would stick out in the middle of the street while waiting for the gate to open.

I hope this bill would give me the opportunity to give the people who live in my neighborhood and my district another chance at this.

Assemblyman Segerblom:

Part of the problem we have in our neighborhoods is they are all different. They were built back when variances and things did not happen. Now the cities come in with their codes and their code enforcement officers and tell us what we can and cannot do.

I feel that we should be able to force them to work with us as opposed to telling us it is the law and you cannot do it. I will try to add some language that would address that issue and urge the counties and cities to be more lenient as far as dealing with us.

Assemblyman Claborn:

I support this bill.

Assemblyman Christensen:

In the newer areas like Summerlin there is a Special Improvement District (SID) fee that we all pay. Is that SID fee helping to pay for the utilities being buried underground? How does that tie into this bill?

Assemblyman Segerblom:

The way this is drafted, it would go into everyone's rate base. Chair Kirkpatrick told me that Summerlin does use SIDs and maybe that is something we could tweak as far as making SIDs for older neighborhoods so they can go back in and agree to bond the money and bury the utilities underground.

Assemblyman Christensen:

I was wondering if the bill, as written, would have residents who are already paying for the convenience of having buried utilities pay for them again.

Chair Kirkpatrick:

From my experience on the planning side, people do not like SIDs. They are the first to complain because when you go into an older neighborhood, you are going to get 40 to 50 people who are going to have to pay the cost of \$60,000. That then goes as a lien on their property until it is paid for, or they have to pay up front.

I understand where you are coming from on the power lines. Years ago Craig Road was the speedway, it was dirt, it had no lights, and now all of the power lines are along the road. In North Las Vegas we tried to work with the power company and the City Council. The residents just did not want to pay the price.

This bill offers some good things because there are a lot of neighborhoods that are older. Maybe we can work to better preserve them.

As far as the SIDs are concerned, that is like asking someone if they want to pay \$2 for a gallon of milk or \$3. Which would you choose?

Assemblywoman Pierce:

Can we add something that says all of the signs in the city have to be the same heights as the ones in Summerlin? Out there all of the fast food signs are about five feet tall, but in my neighborhood they are 90 feet tall.

Assemblyman Segerblom:

I would have no problem with that.

Assemblyman Settlemeyer:

In my area the gated communities own all of their own roads and have the responsibility to maintain them. They have paid for that ability. If they gate the community, does the maintenance and upkeep of the road belong to them?

Assemblyman Segerblom:

Yes. That is the problem because it is required that 100 percent of the property owners sign off on that, which in some ways makes sense because they are going to maintain the roads.

The reality is you never get 100 percent of anything so you have neighborhoods with 99 percent that are desperate to do this and 1 percent not agreeing.

It goes more to the homeowners association that you have to form to agree to take control of the utilities and the roads.

Assemblyman Settlemeyer:

You said you are working on the percentage. I would feel more comfortable when I see...

Assemblyman Segerblom:

The bill says 80 percent.

Assemblyman Settlemeyer:

It says up to 80 percent. It says a certain percentage not to exceed 80 percent and that scares me. I would like to see that narrowed down before I could feel comfortable voting on the bill.

Chair Kirkpatrick:

Assemblyman Segerblom, is that something that you would consider as a friendly amendment on page 9, subsection 2, line 12?

Assemblyman Segerblom:

It needs to be at least 80 percent or more. That was my intent. The way this is drafted probably does not address the issue we are trying to address. The concept is you do not have to have 100 percent of the owners' agreement within an area before you are allowed to gate the community.

Assemblyman Beers:

I came from an area that had older, rundown neighborhoods which went through a restoration process. It did nothing but improve the general economic welfare of the area. With the improvements on the bill, this should be a good idea.

Assemblyman Segerblom:

My request to the drafters of the bill also had a provision that required the mayor of every city involved in decisions regarding the schools within that geographic boundary try to localize things.

I wrote this so it all works together. The schools, the neighborhoods, the cities, and the counties all have to work together where normally they work independently. I was trying to get the local government entities involved with the schools within their districts, particularly in high risk areas.

Assemblyman Claborn:

My neighborhood is approximately ten years old. We have no street lights and we have no sidewalks because of a variance. We own the street from my property line to the middle of the street. The county says I have to maintain it because I own it. I own it because of the variance we have.

Chair Kirkpatrick:

There was a law in place for many years then adopted by local ordinances that property does not require curbs, gutters, or sidewalks. That is where you set yourself apart by having the bigger lots so you do not have those.

In Section 1 through Section 4, those things are already done within master planning of streets and highways. Is there something more we could do?

Assemblyman Segerblom:

I am trying to raise the fact that neighborhood integrity is something that has to be considered.

Chair Kirkpatrick:

When it comes to streets and highways there is a master plan. We need to address that with the city for a better way to make sure they include an impact area of a few miles.

Assemblyman Segerblom:

I originally put in a caveat that said the preservation and enhancement of existing neighborhoods is an important goal of the State.

Chair Kirkpatrick:

It is important to say we invested in our neighborhoods 15 years ago when no one else wanted to be there.

Is there anyone in support of A.B. 473?

Susan Fisher, representing the City of Reno:

We support the bill.

I do not have an official council position yet. We will be taking this to the council later this morning for the official position.

We have some staff concerns and are anxious to work with Assemblyman Segerblom on the bill.

We feel that determinations about the preserving of the character of existing neighborhoods and improving the safety, efficiency, preserving the quality of life, and helping them maintain their values is a local planning issue.

Seth Floyd, City of Las Vegas:

We heard back from our City Attorney regarding the issue of vacating. I have not had a chance to speak to Assemblyman Segerblom about this.

Vacating is only part of the issue when talking about gating a community. When you want to gate an existing community, the first step is to vacate the street so it becomes private. Then it becomes an issue of access.

If you have 80 percent of the property owners who are in favor of vacating the street with 20 percent opposing, in theory the opposing property owners could block access to the homes of property owners in favor of vacating.

That is the language that needs to get into the bill to address Assemblyman Segerblom's concerns. We would be happy to work with him on that.

Chair Kirkpatrick:

Could you put enabling language in the bill to allow a neighborhood to create an SID if they wanted to? How does that process work?

Seth Floyd:

I am not certain how that would work. I can find out.

Chair Kirkpatrick:

Maybe we enable people to do it if they choose to.

Assemblyman Segerblom:

I would like to have more of a mandate in respect to property owners on the main thoroughfares. I do not see why we could not require some of these who own million dollar properties on Charleston or Sahara to agree to put their power lines in the ground.

Chair Kirkpatrick:

Is there anyone who is opposed to A.B. 473?

Rebecca Wagner, Commissioner, Public Utilities Commission:

I did not sign in to speak today. I am here to make the introductions.

I have Nancy Wenzel with me today. She is the one who presided over an investigation we had on this issue.

Nancy Wenzel, Utilities Hearings Officer, Public Utilities Commission:

The commission is testifying in opposition to A.B. 473.

Our primary concern with the bill is one of equity amongst rate payers. The commission believes it is not equitable to require all of the utilities customers, regardless of where they live, and regardless of whether they benefit from putting utilities underground, to pay for the planning preferences of a local governing body.

The benefits are one of esthetics not one of health and safety.

The rate adjustment methodology in the bill is contrary to the commission's existing statutes.

Our existing law requires electric utilities to come in every two years for a rate case, which may change to every three years.

If telecommunications providers are an incumbent local exchange carrier operating under an alternative plan of regulation under *Nevada Revised Statutes* (NRS) 704.68952 they are not subject to any review of earnings, monitoring of rate base, or any other regulation by the commission. A PAR carrier's rates are capped for five years and they cannot apply to the commission for a rate increase.

Section 8, subsection 7 of the bill requires the utilities to come before the commission annually. A service provider shall annually present to the commission the certified accounting of the costs of conversion and an accounting of the revenues it has received in that year from the adjustment in rates.

This does not coincide with the commission's existing rate making methodology.

The commission believes there is already an adequate mechanism in place in NRS 701 and in NRS 704A to preserve existing neighborhoods with the creation of local improvement and service districts.

Individual residents can petition for the creation of a service district. The commission has sole rate-making authority. Whether the conversion of existing overhead service facilities to underground facilities will help preserve the

character of existing neighborhoods or the quality of life of the service provider's customers, this is better decided on the local level.

We agree with the City of Reno that the preservation of existing neighborhoods is a local planning issue, not an issue for the Public Utilities Commission.

Judy Stokey, representing Nevada Power and Sierra Pacific Power:

I do not like having to oppose a bill like this in regards to beautifying a neighborhood, but I have to today on specific issues.

I would like to work with the sponsor to see if there is something we could work out.

We are currently going through a process with the City of Las Vegas to beautify downtown. It is something the mayor has been after for that area for some time. It is a long process.

We are looking at how we could and would underground all facilities in the downtown Las Vegas area. This process is going to take a couple of years. We are still not at the point of who is going to pay for that, but we are working with it.

There are other mechanisms for handling this, and I do not believe it has to be done through legislation.

Who is going to pay for this? We have existing franchise agreements with the local governments. The City of Las Vegas' franchise agreement addressed further how we are going to handle some of the older neighborhoods and how we are going to retrofit and relocate some of those facilities to make sure we are Americans with Disabilities Act (ADA) compliant on the sidewalks.

It is something that cannot be done overnight. There are a lot of things that go into the planning.

Things changed in the 1980s to where distribution lines are put underground. That is the norm. These are all older neighborhoods, and it is more expensive to do it after the fact.

Some of the roads are under Nevada Department of Transportation (NDOT) jurisdiction, so we would have to see how they would have to handle that.

Sometimes there is not room in the right-of-way to put these facilities underground if you already have a lot of other utilities there.

If we were to underground the electric facilities, sometimes other communication facilities on those lines would need to be underground, too.

Chair Kirkpatrick:

Is there anyone else opposed to A.B. 473? [There were none.]

Is there anyone who is neutral on A.B. 473?

Is there anyone in Las Vegas who would like to speak on A.B. 473?

Pam Kowalski, representing Southridge Neighborhood Association:

I am here to read a statement from Gregory Brown, President, Southridge Neighborhood Association.

On behalf of established neighborhoods such as ours he wants to voice his support for the Neighborhood Bill of Rights.

Southridge neighborhood and other established neighborhoods in our area have attracted great interest in the past few years because of their central location, the unique nature of our homes, and the sense of community and civic spirit that pervades our neighborhoods.

We also face unique problems due to our proximity to major transportation thoroughfares, commercial and resort areas and also because of the older infrastructure of above-ground power lines.

This bill would create an incentive for utilities to upgrade the infrastructure by relocating power lines underground.

I can speak from personal experience of the need for this measure. In the past year on my street we have had two fires that were nearly catastrophic due to power lines and older utility poles.

On one occasion a power line fell into the bushes of a neighbor's backyard sparking a fire that quickly spread to the house.

On another occasion a fire in a neighbor's backyard, possibly started by a barbeque, caught a utility pole on fire. This fire caused overhead power lines to visibly and dangerously sway and threaten to fall.

In both cases disaster was averted, but such problems highlight the need to have utilities moved underground. We believe this bill would provide Nevada Power with an incentive to do so.

Over the years, through the time and effort devoted by our residents, our neighborhood has taken an active interest in planning and land use decisions.

Another reason we support this bill is to ensure this opportunity is codified and residents' concerns continue to be included in decisions that affect our neighborhood.

Assemblyman Segerblom:

Hopefully, I can work with some of these people and come back with a few changes.

Chair Kirkpatrick:

I am going to close the hearing on A.B. 473.

[Meeting recessed at 8:42 a.m.]

[Meeting reconvened at 8:59 a.m.]

Vice Chair Pierce:

I am going to open the hearing on A.B. 463.

Assembly Bill 463: Makes various changes pertaining to residential establishments and group homes. (BDR 22-534)

This measure makes various changes pertaining to residential establishments and group homes.

Assemblywoman Marilyn Kirkpatrick is the sponsor of this bill.

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1:

I would like to give you some background on where this bill came from and where we are today. I have some people who live in an area that has been encroached upon by several group homes.

In Assembly District 1 most lots with homes are 20,000 square feet. What has happened is we have 40 group homes within our small Assembly District, so it has become something that has plagued the quality of life of the people who live in this district.

In 2001, Majority Leader John Ocegüera put into law that the distance requirement must be 1,500 feet. We have very few local governments who actually did that. We are here today to address that issue.

We do not have any way to register these group homes. The law is very vague and there are several loopholes.

If you are a non-profit organization, all you have to do is get a business license for \$36 at your local government and you can set up shop. We do not have the manpower on the State level to go out and say there is a problem.

On Maverick Street in Las Vegas, there has been a group home for seven years. The neighbors had their arms wide open to the idea because it was going to be for seniors. One day mom and dad were at work and the children were home after school. The children were eight and ten years old at the time. The group home was next door. A resident of the group home came over with a chicken with the head chopped off, walked into the house, went into the kitchen, put the chicken in a pot, and proceeded to bake cookies for her grandchildren, or so she believed. Mom and dad came home and freaked out. They called the police and the State Licensing Department. It was close to five weeks before the issue was ever addressed. Where is the supervision in these homes? Where is the person who is responsible for them? It now becomes a safety issue for the people who are in the home as well as the people who live in the neighborhood.

This bill addresses how the State can put stringent requirements into law so we know the people in these neighborhoods and in these group homes are safe.

There is another group home in my district where they do not get three square meals a day. We have people who are mental health patients living in our neighborhoods. That is the safest place for them to be, but we have people who have used the group home as a business who are now not taking care of the needs of those who live in it.

We did a statistics check on three group homes within my district. Within one year there were 246 calls made on an emergency basis, whether it was police, fire, or ambulance, to locate people that had been roaming or were lost. Imagine your grandmother walking the streets at 2:00 a.m. because no one has made sure she is where she is supposed to be. Our services are being over-utilized.

This bill requires a register because we need to be able to track the group homes in our State. I have asked several of my colleagues in the Assembly what the circumstances are with group homes in their districts. Some said they

have three on their street even with the distance requirement. I went to their local government and found there is no ordinance in place. If local government does not put an ordinance in place, the State will set it for them. We need the distance requirements.

This is a situation we will address for the next couple of sessions because once we have the group homes registered—the next and bigger problem is we have eight businesses that do not reside within the State of Nevada that have many of its group homes. These businesses are renting out rooms as opposed to being licensed as a group home. Once our registration is in place, which this bill now requires, we will see what we have out there.

The law does not say you have to be notified when a home changes to a group home. For instance, if I decided to have a group home or a boy's and girl's club in my home, I would get my permit. I could change that permit at any time because the use is for a group home, and it runs with the land as opposed to running with the business. Ten years later I could have a totally different type of home in my neighborhood and there would be no public process.

Clark County had one care facility that was advertising you could stay at this place and get the treatment you need, attend counseling, et cetera for \$100 per week. Those are things people in group homes need, but the people running them are not licensed. The people running the group home are collecting the checks, but there are no services that go along with it.

Another part of the problem is definitions. This bill goes back to statute and defines it. We have a custodial facility, which is different from a halfway house, which is different from a group home, but they all serve the same purpose. What we are trying to do is bring some continuity across the State and register the people we have running group homes.

One thing I did not address in this bill is deciding who the paperwork needed to go through and who had to do the reporting. It is only fitting that local governments have their business licensing department do it. That is where you go to pay for a business license. It is a complex but very effective bill. When it comes to group homes it addresses the needs of everyone across the State.

Assemblyman Atkinson:

How does this bill help local governments? Right now all of them have different ordinances that tell them how they are going to deal with group home situations.

Assemblywoman Kirkpatrick:

That is true. They are very inconsistent throughout the State. This puts the owners back on the State to make the process harder. The law says you can have a minimum of one license. It does not say it has to be a State license, and it does not say it has to be a local license.

The local governments read it as giving a person a business license and then letting them open a group home. This bill will put in some stringent requirements before they can get to that process. This will require them to get certified and have enough staff. State law does not tell you what you have to do at this point. It just tells you that you are required to have a license.

This will take the heat off the local government and put it on the State to make sure the people providing these services are actually providing the services. It will allow the residents to know what kind of zoning is in place. Before they can apply for a special use permit they have to go to the State. They have to meet local, State, and federal guidelines for the type of group home they are opening. It is very cumbersome for them to have to do all of that. Whether or not the local government requires licensing, it would have to submit paperwork even for a non-profit.

Assemblyman Beers:

Is there a mechanism in this bill that says how the quality of the care regarding the residents is to be monitored, or does that come under another statute that ties into this one?

Assemblywoman Kirkpatrick:

There are a couple of other bills that do that; however, the State sets regulations in place on what type of things they should be looking for. It will also address the review process.

Currently, if you make a complaint it is a long time before you even get a return phone call. The wait time is long and the problem has most likely escalated.

Assemblywoman Parnell:

A lot of this comes down to having an adequate number of people to do the checks and answer the phone calls. Does anyone's legislation this session address the need for increased staff in the agencies that need to be checking these places out? I am fearful group homes are going to do nothing but increase regarding residential homes that care for our senior citizens.

We need to get in the forefront as well on having the people in place to make sure those who are most vulnerable are given additional oversight. That is a large part of the problem.

Assemblywoman Kirkpatrick:

I am working with the Ways and Means Subcommittee on Health and Human Services, and we have addressed that. There are several new positions within the department to address that. In defense of the State, it is a manpower issue, but at the same time we are letting people open up group homes without holding them to a higher standard.

Assemblyman Stewart:

If we are going to increase the staff, is there going to be some additional fees for group homes? I think that would be justified.

Chair Kirkpatrick:

I believe that the person who is being licensed should pay more to help rectify this problem.

Assemblyman Stewart:

The 1,500 feet is between the group homes, correct? That is in place now but not being enforced.

Assemblywoman Kirkpatrick:

It is in place now from a 2001 law which said they had to meet a minimum of 660 feet with a maximum of 1,500 feet. However, I have proposed an amendment today to make the minimum 1,500 feet because the 660 feet then becomes an issue on where we are counting it from ([Exhibit C](#)). I have also stated that if a home does not comply, it is increased to 2,500 feet on the State level.

Assemblyman Munford:

In my district we have quite a few drug and alcohol rehabilitation type establishments. Is there a certain number that a community can have?

Assemblywoman Kirkpatrick:

It is a fine line you have to walk with the Fair Housing Act. We do not want to put the State in a federal court case. We have crafted a bill which will address the problem. Most group homes are run by non-profit organizations, and the law currently states all they need is a business license.

This bill contains tools for us as legislators to represent our constituents to make sure we are getting quality care for the people who have to live in group homes.

Assemblyman Settlemeyer:

In my community we have a couple of group homes that are within 1,000 of each other. Does that problem exist a lot? Would the group homes in Las Vegas, which are already close together, be grandfathered in?

Assemblywoman Kirkpatrick:

I am going to defer that to the Legal Division.

I think when they are already an established business they have a vested right. However, with the review process, we can make sure they are living up to the current standards.

Brenda Erdoes, Committee Counsel:

What you said is correct.

The grandfathering would be necessary to ensure the property rights of those people is protected but would not extend to those who are not operating lawfully. Having the registry that this bill puts in place will help both the State and the local government figure out which ones are operating lawfully and those will need to be grandfathered in.

Assemblywoman Kirkpatrick:

I have a couple of people from Clark County that have been a big part of this process and would like to speak.

Kristen Stout, Private Citizen, Las Vegas, Nevada:

I am here in support of A.B. 463.

The thought of a group home was never an issue for me until this year. Within the last six months my neighbors and I have fought off two high density proposed group homes within our neighborhood.

While those who reside in group homes have a right to live where they choose, we as citizens have an equal right to be extremely concerned about the draw group homes have on the Emergency Medical Services (EMS) provided. In A.B. 463, a greater distance requirement between group homes is being proposed which will allow for neighborhoods to remain as neighborhoods.

The group homes discussed in this bill deal primarily with homes that provide services to the disabled, elderly, and those recovering from drugs and alcohol. Therefore, those residing in group homes have special needs where they rely heavily on the services of agencies providing emergency services. If you were to pull the run logs from EMS providers, you will find that each group home has a significantly higher usage of EMS services at their facility. The overall impact of this is not only to the surrounding neighborhood, but also to the EMS providers themselves. Each time an EMS provider runs a call to a group home, that EMS provider cannot provide service to the surrounding neighborhood, which means the next closest responding unit would have to take the next emergency call. Assembly Bill 463 allows, by database, group home information to be issued to the EMS providers. This information will allow EMS responders to have the ability to know that the house they are called to is not a regular single family residence but one that is a group home that has multiple people with serious needs.

The proposed 1,500 feet minimum distance requirement is a fantastic way to prevent group home establishments from taking over an entire neighborhood. While group homes with ten or fewer residing individuals is touted as being a single family residence, it is when multiple group homes are in one neighborhood that it is no longer truly a neighborhood, but a chain of money-making establishments.

This will also give neighbors a chance to have peace of mind knowing there may be one group home directly next to them, but they do not have to worry about another one opening across the street from them, as well. Neighborhoods cannot remain as neighborhoods when businesses such as group homes move in and take over.

As legislators you have the ability to protect not only all neighborhoods but those residing in group homes, the EMS providers, and the average citizens whose lives are negatively impacted by group homes. As citizens we are under the assumption that our lawmakers are looking out to prevent injustices, and I find that A.B. 463 sets out to change the current group home law for the better. This bill is an incredible start, and I hope with the changes proposed, this will allow for the housecleaning of group home establishments which are not looking out for the best interests of their own residents and the community.

Stewart Moyes, Private Citizen, Las Vegas, Nevada:

I live next door to a group home. My neighbors and I are concerned about this unlicensed group home. The police have been there many times, including for the death of one of the residents due to a drug overdose. The residents are all former substance abusers who are being deferred by different groups such as

Alcoholics Anonymous (AA). The man who owns this property has four homes which are all illegal businesses. He shuttles the residents around to the four homes. The police, county, and State authorities are all aware of this house. We have been through many complaints. The owner of this house gets \$400 per month from each of the residents all as an unlicensed illegal business. In January of this year the State of Nevada required this home to cease and desist from operating. As of this moment nothing at this house has changed. It is business as usual.

Rob Joiner, Government Affairs Manager, City of Sparks:

In my former life as a land use planning manager, I had experience in the genesis of the language that got us here today. It is ironic we have come full circle on an issue that your predecessors required local government to stay out of because of the stigma of people not wanting a group home in their neighborhood, and local governments requiring special use permits and other discretionary approvals for those types of homes.

The laws were changed to require six or fewer residents of different types of group affiliations could not be regulated by local governments. We did not have the authority to look at distancing or regulation other than the licensing to the health departments and making sure they had the proper staffing.

In the City of Sparks we took the law very literally and increased our numbers to 10 residents. Ten or fewer we do not regulate. We do not require any type of discretionary approval through our governing bodies. If they are registered, it is through State or county health departments, or because they have business licenses.

A phenomenon in planning in recent years has been through the definition of family. You will see that people are allowed to affiliate in different liaisons, and the local government is not allowed to limit the numbers in certain home and group activities because of their definition as a family.

In Section 8, I want to point out where it says "as a prerequisite to the approval of issuance" because certain local governments look at group activities and under discretionary approvals, variances, and use permits it says that before those are issued we require they be licensed through the other agencies.

A lot of times these are rental houses and people are going to rent contingent upon getting their approvals. The first approval you could get would be the local government allowing them to use that as a group activity. It is a Catch 22 that we would require them to have their other licenses before going to our planning commission for a special use permit.

Assemblyman Settlemeyer:

Are we not asking these group homes to register where they are?

Rob Joiner:

We do not know where the majority of these group homes are because of the prior requirements of the State not to license them locally.

Assemblyman Settlemeyer:

Will this not help you do that?

Rob Joiner:

It could in the future.

If you are going to require us to start requiring discretionary approvals, that is something we could start doing, but to go back could be difficult.

Assemblyman Goicoechea:

Is it set by local government how many people can be in a group home and not cross the threshold?

Rob Joiner:

We require a discretionary permit above ten. Below that limit we do not. I think the State law is six and below and does not require a discretionary permit. We took ours to a higher level to get more allowance for group activities.

Assemblyman Goicoechea:

I would like to know what the State law requires because if State law says six and you go to ten that is a violation of State law.

Rob Joiner:

We cannot be more restrictive. We can be less restrictive.

Assemblyman Goicoechea:

You are using that in reverse in this case.

Brenda Erdoes:

I will be glad to pull that for the Committee and bring it back to you.

Assemblyman Beers:

You said going back could be difficult. Why?

Rob Joiner:

We do not have discretionary approval, such as special use permits, on many of these. We do not have a listing of where the smaller group homes may be either.

The bill sponsor was surprised when she got the information from Sparks that we do not have licensing on group homes at the local level.

Assemblyman Beers:

Some city or county agencies may have this information? Would it be possible to contact those agencies?

Rob Joiner:

Are you talking about in my community?

Assemblyman Beers:

Yes.

Rob Joiner:

Maybe or maybe not. To a great extent there will not be information because many years ago we were told not to keep track of group homes.

Assemblyman Beers:

What would it take to ease that difficulty?

Rob Joiner:

This bill would provide that—to go back and find a group home of people coming out of jail that live in group activities. If they are under a certain threshold, we will not and are told not to know where they live. We are told not to regulate that. How would we find and register them if they are not required to come to us and provide us with information?

Assemblyman Beers:

Am I to understand that these homes, especially the smaller ones, do not require a business license?

Rob Joiner:

That is my understanding.

Assemblyman Atkinson:

You seem to conclude you are going to have problems going back and getting information. Can you tell me who has told you that you cannot ask for this information?

Rob Joiner:

It is current State law.

Assemblyman Atkinson:

Do you have that law?

Rob Joiner:

I thought that was provided to you for your whole discussion on this.

Brenda Erdoes:

Are you talking about the provision that says group homes must be treated the same as a single family residence? I am not sure which statute you are describing.

Assemblyman Atkinson:

I am totally confused by your testimony.

Rob Joiner:

Could I get with Legal and get those statutes then come back in a work session? I would like to provide that because we are working under the laws that we know of.

Vice Chair Pierce:

Yes. Would you provide this to the Committee before a work session?

Assemblyman Atkinson:

It is helpful for us, if you are going to do this in the future, to bring that information with you. If you are going to cite certain language you need to bring that with you.

Assemblyman Stewart:

Would you recommend that instead of putting a number of six or ten that we say, if you are going to be a group home, you have to meet the regulations? It seems to me they would try to get around that by going just under the regulated number of residents. If they are going to be a group home, we need to license them and not mess around with numbers.

Rob Joiner:

I have no advice to you on that. I would defer to the others on that.

Seth Floyd:

We support this bill and our concerns were addressed by Assemblywoman Kirkpatrick, who is going to conduct this inventory.

Mr. Joiner touched on some other concerns, and that is how do we go back and find these facilities. We already have land use regulations in place that are in accordance with this bill. As of August 2006 we do require a special use permit for most of these types of facilities. We stipulate a minimum of 1,500 feet is required between them.

We have no problem with the language contained in the bill, which would require new facilities to meet certain State licensing requirements before receiving their approvals from us. That gives more assurance of the legitimacy of these types of facilities and provides an additional layer of protection for surrounding property owners. Poorly managed and maintained facilities can become a nuisance within otherwise vibrant neighborhoods. Requiring more oversight of them will help them ensure they are good neighbors while providing much needed service within the community.

Vice Chair Pierce:

You do require that these group homes have business licenses in Las Vegas?

Seth Floyd:

That is correct. We have different definitions. There is some inconsistency among jurisdictions about our definitions, and this bill would clarify those. We do require a special use permit for those facilities we have definitions for.

Assemblyman Claborn:

I support this bill.

Brenda Erdoes:

I think we are talking about NRS 278.021, which says "in any ordinance adopted by a city or county the definition of single family residence must include a residential facility for groups in which ten or fewer unrelated persons with disabilities reside with..." and goes on to say how that can work.

In subsection 2, it says "the provisions of subsection 1 do not prohibit a definition of single family residence which permits more persons to reside in a residential facility for groups, nor does it prohibit regulation of homes which are operated on a commercial basis."

That is what we were trying to convey.

Vice Chair Pierce:

Is that the statute you were referring to Mr. Joiner?

Rob Joiner:

Yes.

Assemblyman Atkinson:

I do not hear in this statute where you cannot ask, and it sounds like group homes can be regulated. Is that correct?

Vice Chair Pierce:

It sounds to me like they can be regulated, and Las Vegas has been doing that.

Is there anyone else who would like to speak in support of A.B. 463?

**Kimberly McDonald, State Legislative Affairs Officer, City Manager's Office,
City of North Las Vegas:**

We are in support of A.B. 463.

We have been confronted with a transitional housing crisis for sexual offenders, and we have been trying to address some of our licensure concerns. We feel that the registry would help us in that capacity.

Assemblywoman Kirkpatrick referred to the loopholes in the law. Sexual offender homes have not had to get business licenses with our city because they have a designation as non-profit. We feel this bill will help us strengthen their adherence to getting all of the proper licensure and documentation necessary for them to operate. This bill will put us in the correct direction to achieve what we are trying to achieve. At a local level we are also strengthening our ordinances.

Assemblyman Goicoechea asked about distances. My knowledge regarding the sexual offender transitional homes is that it is 1,000 feet from any other transitional home.

In some areas, we have a higher concentration. Assemblyman Goicoechea also asked about the limitation on the number of homes. We are finding we have more than we ever thought we should have in certain areas. This has become a huge concern for the city.

Vice Chair Pierce:

Is there anyone else who would like to speak in support of this bill? [There were none.]

Is there anyone who would like to speak as neutral on this bill?

Jennifer Dunaway, Health Facility Surveyor IV, Bureau of Licensure and Certification:

[Read from prepared statement ([Exhibit D](#)).]

Assemblyman Stewart:

I cannot see how you are going to be able to enforce this without an increase in staff.

Jennifer Dunaway:

Operating within limited resources is always a challenge. We have done some things in our agency to bundle complaints and investigate them in a timelier manner. Any complaints that come in as immediate jeopardy are investigated within 24 hours.

Assemblyman Goicoechea:

You would license anyone that has over ten residents?

Jennifer Dunaway:

We license a facility that meets our definition for a residential facility for groups. The only number we have as a limitation is over two residents living in the facility. A facility which has only two residents would fall under the definition of a home for individual residential care.

Assemblyman Goicoechea:

The statute that was cited by Mr. Joiner and responded to by Legal talks about residential facilities or groups in which ten or fewer residents live. You lose the jurisdiction with that statute. They do not have to come to you as long as there are fewer than ten under existing law. The new language would require if it is four or more, then they would come see you.

Jennifer Dunaway:

It is my understanding that if they provide the services and meet the statutory definition of a residential facility for groups, and if they house three residents or more, we license them.

Assemblyman Goicoechea:

That is only if they come to you, correct?

Jennifer Dunaway:

That is correct.

Vice Chair Pierce:

Is there anyone who would like to speak in opposition to this bill? [There were none.]

Assemblywoman Kirkpatrick, would you like to speak again?

Assemblywoman Kirkpatrick:

Most of you know I am a pretty fair person and like to work with groups, but on this bill I am not going to do that.

I have spent my interim working with the constituents of my district. I have been working on the well-being and safety of the people who are within these homes. I have also been working with Legal to craft legislation that meets the guidelines of the Fair Housing Act requirements so we know what we have out there. There is nothing in law that says they cannot put a group home in covenants, conditions, and restrictions of record. Local government will tell you too bad.

I am not bending on this. For the safety of your children, your parents, your grandparents, and for the safety of people trying to recover and get back on track, we have to put some type of data in place so we can verify these people are getting the services they deserve and the safety they are allowed.

According to State law, group homes have to have either a State license or they have to have a business license if they are legitimate.

How can you tell me if EMS goes out that they do not have the right to know if there is one person there, ten people there, or if there are oxygen tanks there? I would be more than happy to go back and check the revenues that were brought in by group homes to prove there is paperwork somewhere.

Regarding unintended consequences, I do not want to hurt the neighbor down the street who is letting two senior citizens who do not have the money to stay in a long term care facility stay with him. That is why I did not require homes with fewer than two residents have to meet the higher standards. I just want them to let us know who they are and where they are, so we can make sure there are adequate services.

This is a good start to protecting our neighborhoods and the people that live there.

Vice Chair Pierce:

I will close the hearing on A.B. 463.

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Chair Kirkpatrick:

Is there any public comment? [There was none.]

[Meeting adjourned at 10:00 a.m.]

RESPECTFULLY SUBMITTED:

Mary Kay Doherty
Committee Secretary

Rachelle Myrick
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 28, 2007

Time of Meeting: 8:00 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 463	C	Assemblywoman Marilyn Kirkpatrick, Assembly District 1	Proposed amendment
A.B.	D	Jennifer Dunaway, Health Facility Surveyor IV, Bureau of Licensure and Certification	Prepared Statement