MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY

Seventy-Ninth Session
February 20, 2017

The Committee on Judiciary was called to order by Chairman Steve Yeager at 9:02 a.m. on Monday, February 20, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Steve Yeager, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Elliot T. Anderson
Assemblywoman Lesley E. Cohen
Assemblyman Ozzie Fumo
Assemblyman Ira Hansen
Assemblywoman Sandra Jauregui
Assemblywoman Lisa Krasner
Assemblywoman Brittney Miller
Assemblyman Keith Pickard
Assemblyman Tyrone Thompson
Assemblywoman Jill Tolles
Assemblyman Justin Watkins
Assemblyman Jim Wheeler

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi Swank, Assembly District No. 16

STAFF MEMBERS PRESENT:

Diane C. Thornton, Committee Policy Analyst
Brad Wilkinson, Committee Counsel
Linda Whimple, Committee Secretary
Melissa Loomis, Committee Assistant

OTHERS PRESENT:

Robert L. Langford, Private Citizen, Las Vegas, Nevada
Jennifer Noble, Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association
Bryon Watkins, Private Citizen, Las Vegas, Nevada
Kelly Crompton, Government Affairs Officer, Office of Administrative Services, City of Las Vegas
John S. Delikanakis, Private Citizen, Las Vegas, Nevada
Poly Schmitt, President, Beverly Green Neighborhood Association, Las Vegas, Nevada

Chairman Yeager:
[Roll was called and protocol was explained.] We have two bills on today's agenda, and will start by opening the hearing on Assembly Bill 184.

Assembly Bill 184: Revises provisions concerning the withdrawal of certain pleas. (BDR 3-286)

Assemblyman James Ohrenschall, Assembly District No. 12:
For those who served last session, this bill may look a little like an oldie but a goodie. Last session, I sponsored Assembly Bill 262 of the 78th Session. It was a very similar bill which dealt with trying to restore the motion to withdraw a guilty plea to correct a manifest injustice. As you may recall, the bill was heard, passed out of this Committee unanimously, and passed out of the Assembly unanimously. It never received a hearing in the Senate. Chairman Hansen, who was the chair of the Committee on Judiciary at that time, was very kind, courteous, and worked with me. We tried to find a home where the language in that bill could survive and hopefully make it to the Governor's desk. In the process that was shepherded by your predecessor, Chairman Hansen, I was able to work with the prosecutorial bar. With the first version of the bill two years ago, the prosecutorial bar had concerns that restoring the motion to withdraw a guilty plea could lead to an opening of the floodgates of people, in custody or out of custody, filing these motions, many of which might not be meritorious. There were quite a few discussions with the prosecutorial bar.

I want to thank John Jones, Kristin Erickson, Brett Kandt, and the Washoe County District Attorney's appellate team. They worked really hard with us to try to come up with a compromise. We came up with consensus language that went to a conference committee and was agreed upon. The conference reports were agreed on by the conference committee.

In the last 20 minutes of the last night of the session, somehow the original report did not get filed, and even though there was complete agreement on the language, which is now Assembly Bill 184, it slipped through the cracks and the bill did not make it to the Governor's desk. I am trying again on this bill. The language that you see in A.B. 184 is the consensus language that I worked out with the prosecutorial bar last session, and I believe it accomplishes much of what we needed after the *Harris* decision [*Harris v. State*, 130 Nev. Adv. Op. 47, 329 P.3d 619 (2014)]. Our court systems are not perfect and our attorneys are not perfect. Unfortunately, mistakes can have lifelong consequences for the clients we represent. These mistakes could affect one's ability to own a firearm, or have a career in law enforcement or security. There could be immigration consequences. Pleas you may have taken quite a while ago for which you were not given proper counsel by your attorney can have very grave consequences for your life. With the *Harris* decision, there was a group of people who had a pathway to try to remedy a wrong, and that pathway was closed. This bill attempts to reopen that pathway. Courts do not have to grant this motion. Of course, the courts will look at the merits of the motion and if it has merit, then the person has that right, but if not, then the courts will not grant the motion.

Today, I am very privileged to have one of our state's great criminal defense attorneys and a great prosecutor, Robert Langford, presenting at the Grant Sawyer Building. He also worked with me and the prosecutorial bar during the last session. While I have learned a lot about postconviction relief working on this legislation, I do not practice in that area. I would like to turn it over to Mr. Langford, and then take questions after he goes over some of the more technical aspects.

Robert L. Langford, Private Citizen, Las Vegas, Nevada:
I would characterize this bill as an extraordinary remedy, particularly since it has been modified with some of the language requested by the prosecuting organizations. It takes us back to a time when there was one final remedy that may have worked for someone who, down the road, found out they were either represented by someone who was incompetent and did not get the kind of representation that they thought they were getting or needed, and ended up with some extreme consequence. This is not a typical, ordinary writ. That was fashioned when the Legislature changed everything to include just one writ of habeas corpus postconviction relief motion. This is something that very few people are going to be able to avail themselves, particularly with the language on the doctrine of laches.

This particular bill will create a presumption, a rebuttable presumption, that there is prejudice to the state or to the prosecutors with the passage of time. What that essentially means is a person going into court after a certain time period has to show that the state is not prejudiced, whereas in a typical situation under a doctrine of laches, the state would have to show that they are in fact prejudiced. Now it places the burden on the person bringing the motion. It is not an easy thing to do. I have to show that someone else is not prejudiced, as opposed to having to show they are prejudiced. That is one of the impediments that this bill places on people bringing this particular kind of petition. That is important because the justified concerns of the people on the prosecuting side are that anyone can file this kind of motion and be successful. That is just not going to happen.

Lastly, if you have availed yourself of a writ of habeas corpus, then you can avail yourself of this particular petition. The vast majority of people convicted and suffering punishment of some kind do avail themselves of either a direct appeal and a writ of habeas corpus or just a writ of habeas corpus. The bill is narrowly tailored so that it will only apply to a limited number of people. Then why do we need this bill? This bill really only takes us back to pre-2014. The Legislative Counsel's Digest does a good job of outlining what took place and why this bill is necessary. The small gap is left open to people who need an extraordinary remedy.

Assemblyman Fumo:
Section 1, subsection 4 gave me a little pause. It says, "The court shall not appoint counsel to represent a person for the purpose of subsection 3." You discussed how the burden is now shifted onto the person who brings the motion. The burden is now on him and it seems like the poor and mentally ill, the most disenfranchised, are the people who will not be allowed court-appointed counsel. The way this reads to me is the rich but mentally ill defendants can file this motion, but the poor defendants are going to have to do it on their own and they have the burden to overcome.

Robert Langford:
I think they do have a burden. However, I think it is a burden not unlike the burden that is already in place with a writ of habeas corpus. The Nevada Supreme Court has said that a person filing a writ of habeas corpus is not entitled to court-appointed counsel, so it is a longstanding doctrine that is already in place. It might be unusual to have this particular kind of petition where you allow court-appointed counsel. I think the public defender institutions we have in Nevada are not really designed or funded to accommodate this kind of motion. Usually, down the road, they have lost contact with their clients and/or they have destroyed their records. I think the language is there to narrow the type of people who can file the motion. I do not believe that it is necessarily incongruous with what we currently have with writs of habeas corpus.

Assemblyman Wheeler:
I was on the Committee on Judiciary in the beginning of the last session, but I was traded to the Assembly Committee on Government Affairs, so I do not remember hearing this bill. This seems to be fairly narrowly tailored, as Mr. Langford said. What would be the effect on our court system if a lot of the jailhouse lawyers start trying to use this to basically back up our court system? Could that happen?

Assemblyman Ohrenschall:
I believe this consensus language we came up with in the last session is narrowly tailored so it is not something that is abused by the jailhouse lawyer. That was a concern the prosecutorial bar had in the last session. We tried to address it with the compromise language.

Robert Langford:
I think the language, particularly with regard to the rebuttal presumption of prejudice to the state, is sort of a gatehouse that typical petitioners are not going to be able to go through. The quick motion to dismiss by the Office of the Attorney General or the state prosecutors will quickly deal with this kind of motion. People file crazy motions all the time. You are never going to stop the floodgate of crazy motions. You will stop the motions that are not merited.

Assemblyman Wheeler:
My concern is I have seen some of these jailhouse motions that are crazy on their face yet somehow make it through the system and back up our court system. That would be my only problem with this bill. Other than that, I do not have a problem.

Assemblyman Ohrenschall:
If you look at page 2 of the bill, lines 34 through 36, the consensus language that we came up with is "At the time the person files the motion to withdraw the plea, the person is not incarcerated for the charge for which the person entered the plea . . . ." We really tried to tighten it up to make sure we would not end up with abuse by the jailhouse lawyer. Section 1, subsection 3, paragraph (a) requires that to be eligible to file this, a prior postconviction relief petition cannot have been filed, which also limits it. It has been written in a strategic way to try to prevent abuse by the jailhouse lawyer who might try to abuse this motion.

Assemblyman Pickard:
With respect to section 1, subsection 3, paragraph (d), this is not truncated at all by the doctrine of laches. As I see it, this essentially opens it up in perpetuity for a withdrawal. Obviously that is not necessarily going to be the case if the case moves forward. Would you explain why paragraph (d) is necessary?

Assemblyman Ohrenschall:
There might be a citizen who took a guilty plea years ago and is able to overcome the laches. Two years ago at the hearing, we heard about clients who showed up on the day of trial, and their attorneys, who had not subpoenaed any witnesses, urged, "You better take this deal. You better negotiate this." They were scared and they did. It might be 20 years ago and now a career in the military or a career as an armed security guard is off the table because they pled to something that precludes it. In the last decade, *Padilla v. Kentucky* [559 U.S. 356, 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010)] mentioned that defense attorneys have a duty to advise their clients about immigration consequences. There are many defendants who took negotiations long before *Padilla* and were never advised of the immigration consequences. They took what they thought was a good deal, perhaps to get probation, perhaps to get a dismissal, but now they may be facing removal from the country even though they have built a business, have families here, have contributed a lot to our community, and are licensed permanent residents or have other documented status. In my opinion that is why, if a client can overcome that burden, this is needed.

Robert Langford:
I filed a half dozen of these petitions prior to 2014. Within those half dozen, I was successful in two. One involved a person who found out years later, when he went to buy a gun—he had previously bought several guns—and was told he could not get a firearm because he had been convicted of battery domestic violence. He had been embarrassed by the whole situation back when it first occurred, he had waived his right to an attorney, which is what you could do in those days, he pled guilty, and in so doing lost his ability to have a firearm. It was within a certain time period where there was no prejudice to the state in this kind of a challenge.

The other one was a similar situation where I had a person who was active military. He appeared in court, his attorney told him that he absolutely had to plead guilty to the crime, and he had no understanding that under the military code he was going to lose his ability to carry a firearm, which is mandatory if you are going to be active military. So the same thing happened. I was able to go in and file this kind of motion. In both of those situations, no one had advised them that they had a right to appeal their conviction. No one had advised them that they had a right to file a writ of habeas corpus. Because of that, they did not do either of those things. This was their only possible remedy.

The doctrine of laches is important because you can raise it at any time, even two years after a conviction. The state or the city is able to raise this issue even at that time, and say, "Now we are prejudiced by the passing of time." With each passing year, it becomes more difficult to overcome, even if the burden is on the city or state to show it is prejudiced. When you get to a point where there is a rebuttable presumption, and now we are making the petitioner show that the city or state is not prejudiced, you have just about narrowed it into a situation where truly it is an extraordinary remedy. For the most part, they are not going to overcome the doctrine of laches, because with the passage of time, witnesses get lost, paperwork gets lost, police officers retire, and there are a variety of reasons why they are not going to be able to be successful.

Assemblyman Pickard:
The struggle I am having is understanding. Section 1, subsection 3, paragraph (d) seems to be internally inconsistent. The way I am reading it is, "The motion is not barred by the doctrine of laches." So we are taking laches off the table and substituting it with a presumption that accrues after five years past the date on which the person was convicted. A rebuttable presumption attaches, then, in place of the doctrine of laches. My ultimate concern is what happens when a defendant who, even though he may have been inadequately advised by counsel as to what the subsequent effects or disabilities that might attach to his guilty plea will be, he waits to a point in which the state has no ability to present any testimony. The witnesses are gone. The evidence is stale or whatever it may be. How does that protect the state? If the individual pled guilty, that has to carry some weight. How do we protect the state from moving on, even at four years, if, say, the principal witness dies?

Assemblyman Ohrenschall:
As I understand it, prior to *Harris*, in order to try to succeed on one of these motions, you had to prove your client had been a victim of manifest injustice by whatever happened to them through the system, through their attorney, and that it was material. I believe the same standard would apply here if the statute is enacted.

Robert Langford:
I think that is correct. The language is not barred by the doctrine of laches in and of itself. It shifts the burden at the five-year point. At the initial filing of the petition, prior to the five-year point, my understanding is that the burden is on the state or the city to show they have been prejudiced and there is no manifest injustice. After the five-year point, the burden shifts to the petitioner and says, "Now you have to show that the city or the state is not prejudiced." Absent you being able to prove they are not prejudiced, there is a presumption, and therefore, the doctrine of laches says they prevail anyway, even if they have not shown anything. You have to prove something after the five-year point. They need to show they have been prejudiced prior to that point.

Chairman Yeager:
Are there any questions from the Committee? [There were none.] Is there any support for the bill in Carson City or Las Vegas?

Jennifer Noble, Deputy District Attorney, Washoe County District Attorney's Office; and representing Nevada District Attorneys Association:
I am here on behalf of the Nevada District Attorneys Association. I want to indicate that we support this bill with the language that has been added last session. I am also in the appellate division of the Washoe County District Attorney's Office and regularly practice in these areas. If you have any questions, I would be happy to answer them.

Chairman Yeager:
Are there any questions? [There were none.] I noticed that during the last exchange it looked like you were coming up to the table. Do you have something you would like to add about the idea of laches and particularly section 1, subsection 3, paragraph (d) of the bill?

Jennifer Noble:
It was correctly stated that the state has the burden to plead and prove laches until we get to the five-year rebuttable presumption. That has always been the case. One thing I would like to add about this bill that makes it better for us, even pre-*Harris* decision, is that previously defendants were using a motion to withdraw a guilty plea postsentencing to circumvent the one-year statute of limitations on a petition for writ of habeas corpus. So we would be seeing the same claims that should have been pleaded in a petition for writ of habeas corpus, and instead they would use that as a procedural vehicle to get around that one-year limitation. From where I am sitting, this puts us in a better spot than we were at least pre-*Harris*.

Chairman Yeager:
Is there anyone else who would like to testify in support of the bill here in Carson City? [There was no one.] Is there anyone in Las Vegas who would like to testify in support of the bill?

Bryon Watkins, Private Citizen, Las Vegas, Nevada:
As far as postconviction and former inmates trying to get remedy for a wrongful conviction, I am here as a witness to that because I am a victim of that system. In 2011, I got into an agreed fray with an individual, but I was the one who got arrested and he did not. I dove into studying law after that. I started to find a lot of stuff in the United States Supreme Court decisions, the maxims of law and scholarly reports on just agreed frays. At the time, I brought it to my defense attorney's attention, and when Assemblyman James Ohrenschall was saying how some defendants can be scared into a plea deal, that is what I did. It was a no contest. At the time, I honestly believed I committed a crime because that is what I was told.

After that, I started to research very meticulously on the law maxims in the *Nevada Revised Statutes*. In my case, they charged me with battery with substantial bodily harm. I came across a lot of court cases that said if there is an agreed fray, and the law maxim also supports this, regardless of injury, then there was no injury. Injury occurs only if there are weapons involved, which there were not, or if there is excessive force, which there was not. When I saw the video six or seven months later, what the prosecutor wrote in the charges compared to what is in the actual video, which is live and in color, were two different things. There were no weapons involved; no excessive force was involved. When I started to find out more of the truth, I decided to let it play out and, on my own, get my remedy to have this reversed.

As far as the accused being arrested for an alleged crime, especially when there is no mens rea, actus reus, or malum in se involved, it can be scary and intimidating. I agree when, as the panel says, it can be intimidating when you are forced into a plea and you have no remedy. I also agree with the fact that a lot of individuals who want to try to get remedy, it is meritless. I understand that. I would also like to bring to your attention what the United States Supreme Court Chief Justice John Roberts said in the Supreme Court case, *Gabelli v. S.E.C.* [133 S. Ct. 1216 (2013)] which was, "Ignorance of the law is no excuse." He reiterated to make sure that it was geared toward those who worked in law. Chief Justice Roberts said, "We are not in the stage of constant investigatory work." We do not have access to these types of expensive books. Some law books that I wanted to buy cost from $1,000 to $3,000. Therefore, those who work in law enforcement, lawyers, prosecutors, judges, and so forth, should know these things. That is why I was extremely upset to the point that I was angry. When I started to bring this up to my defense attorney in court in front of the magistrate, who is the last line of defense, he did nothing about it, and let it proceed.

I can go on—I have stacks of stuff. I have a law section at home with court cases on top of court cases that say specifically what I just described, but I never hear anyone talk about it;

that is a problem. No one knows these things and it is not brought up to people like myself in the private community when they are accused of what they think is a crime, when it turns out not to be a crime.

As far as this bill goes, I understand it can open the floodgates, but we have a right to remedy. It is as simple as that. That stays with us, not just on our record, but no one else brings up the fact of the mental anguish it causes. The mental anguish it put me through for the first 2-1/2 to 3 years is just unimaginable. Sometimes I still go through it. The court cases and the evidence I have are overwhelming. I am also working on writing a book about my situation to educate the public on certain things in our judicial system.

Chairman Yeager:
Is there anyone else in support of the bill? [There was no one.] Is there anyone who wants to testify in opposition to the bill? [There was no one.] Is there anyone who would like to testify in the neutral position? [There was no one.]

Assemblyman Ohrenschall:
I think Mr. Langford put it best. This will be an extraordinary measure if it is passed and goes to the Governor. I think the consensus language really limits it to where a material and manifest injustice has happened to a defendant where unfortunately the court system, legal system, and/or their attorney has failed them. I do not believe this will open the floodgates. I believe it is written in such a narrow manner that floodgates will not open. I believe this will open up a path to a remedy for defendants who have suffered severe collateral consequences due to a plea in the past for which they were not properly informed.

Robert Langford:
My concluding remarks would be that I think the reason it enjoyed bipartisan unanimous support in the last Legislature was because everyone understood this to be a separation-of-powers issue as much as anything else. For years, when the Legislature first passed the Uniform Post-Conviction Procedure Act, everyone understood that it was apart from a motion to withdraw a plea if it was incidental to the trial. Even the Supreme Court initially said yes, it is clear the Legislature did not take any kind of action with regard to motion to withdraw a plea. Time passed and then all of a sudden the Supreme Court decided they wanted to revisit that issue. This merely takes back what the Legislature's initial intent was up until 2014. As much as anything, I think this is a separation-of-powers issue.

Chairman Yeager:
Thank you for being here to present the bill. We will close the hearing on A.B. 184 and open the hearing on Assembly Bill 219.

Assembly Bill 219: Revises provisions relating to gaming enterprise districts. (BDR 41-193)

Assemblywoman Heidi Swank, Assembly District No. 16:
I am here to talk about Assembly Bill 219. This gaming overlay is on part of the Beverly Green and Southridge neighborhoods that are located north of Sahara Avenue and east of Paradise Road, which is one road off of Las Vegas Boulevard, right off the north part of the Strip. Beverly Green and Southridge is an area composed of about 400 mid-century homes and is a very vibrant neighborhood. People know each other, they help each other out, there is a great sense of community, and sometimes you even forget you are just blocks off the Las Vegas Strip. In the early 1980s, there was a gaming overlay placed on the Paradise Village tracts. The Paradise Village tracts are the southern part of the Beverly Green neighborhood between Saint Louis Avenue and Sahara Avenue. It is the only part of the Beverly Green and Southridge neighborhoods that has a gaming overlay on it. You will hear from the City of Las Vegas this morning about the historic significance of the Paradise Village tracts.

At this point, in addition to what the City will talk about, this portion of Beverly Green is about to become a National Register of Historic Places neighborhood. That should happen sometime next year, so it is a part of our state's history and an important place to preserve. This neighborhood is also a collection of 800- to 1,100-square-foot homes, so they are rather modest houses. The University of Nevada, Las Vegas Downtown Design Center is currently working on a project to re-envision and re-create this neighborhood to make it much more walkable and to create some public spaces. We are looking at doing a greater investment in this neighborhood of relatively small houses. Having the gaming overlay removed from the area would make a lot of it just a little more conducive to that kind of redevelopment. The request to have this gaming overlay removed comes out of the neighborhood plan. I have a copy if you are interested. The neighborhood developed the plan some time ago in conjunction with the City of Las Vegas.

Just to get a quick look at the bill, we are looking at removing the gaming overlay from the residential portions. There is a gaming overlay that is on Paradise Road. We are fine with that. It can stay right where it is. It is really just the areas that are zoned primarily for residential use. I would add a slight change to the wording here. If you look at page 2, lines 12 and 13, it says, ". . . land zoned primarily for residential use . . . ." I think we would like to add in "single-family and multi-family residential use." This area has some really thriving apartment complexes that provide some fashionable housing for people who might not be able to afford a house.

That is the entire bill. I have some people from Las Vegas who are ready to testify when it comes to support. I am happy to answer any questions.

Assemblyman Pickard:
I appreciate this type of bill when we have to deal with technical zoning issues. Many times people just do not understand. To that point, could you tell us what the disabilities that attach; why this is necessary in terms of the zoning?

Assemblywoman Swank:
There are no structural disabilities, but there are a lot of people who buy houses there without the intent of investing in the neighborhood with the idea that they see this gaming overlay. As we can see with the Las Vegas Strip, there are a lot of other places that are much more likely to be redeveloped for any kind of gaming. This would provide more of a sense of community and people investing in this neighborhood—which is generally what we see in the larger Beverly Green/Southridge neighborhoods. But we would like to see more of it in these Paradise Village tracts.

Assemblyman Pickard:
That raises the next question. Since the purpose of a zoning ordinance is to assure that we are putting a piece of property to its highest and best use and thus the planners have decided that this would be an appropriate expansion area for gaming-type uses—which is why they put the overlay on it—and I understand that this has already been approved for designation as a historical neighborhood, and we are just waiting for that process to finish, would they then be in conflict where we are trying to establish investment and improve the appearance of this historic neighborhood versus those who are trying to collect the parcels in order to do something larger?

Assemblywoman Swank:
To a degree, this will become a National Register neighborhood, which is an honorary list. There are no protections that come with it, so there would not be that conflict. It would provide a bit of an incentive and reassurance to people who are starting to recognize that we have some very historic neighborhoods in downtown Las Vegas. There are people who are looking to buy in historic districts. This would provide a bit of reassurance for those people who are looking in the Beverly Green area for a home that there is not that threat to their long-term investment.

Assemblywoman Tolles:
How large of an area are we talking about?

Assemblywoman Swank:
The *Nevada Revised Statutes* as it is written has a gaming overlay that goes 1,500 feet off the center line from Las Vegas Boulevard, so it cuts diagonally through this neighborhood. The Paradise Village tracts are about 218 houses, and a part of that is covered, but the way it is laid out, it cuts right through the middle of about 110 homes just because it is 1,500 feet off Las Vegas Boulevard.

Assemblywoman Tolles:
Are there any proposals currently to develop in this area or is this preventive in nature?

Assemblywoman Swank:
Just preventive. There are no proposals for that area at this point.

Assemblyman Elliot T. Anderson:
Have you discussed any regulatory-taking issues because of the change in zoning? You mentioned that some people bought homes and invested in that property because of the gaming overlay. I am curious if you or legal counsel had done any research on any potential regulatory-taking issues.

Assemblywoman Swank:
We have not. I would say the rest of the neighborhood does not have the overlay. We are not changing the actual zoning. It is still R-1 [single family residential]. I do not know the number-letter combination for multi-family. We have not, but it is only on part of the neighborhood. I can certainly look into that for you.

Assemblyman Anderson:
It may just be a question for legal counsel. I am not sure if it would be applicable. If you do not know, it is not a problem. Do not spend too much time on it.

Assemblyman Ohrenschall:
I am a native of Las Vegas and I grew up around the corner from Huntridge Theater, so I am really thankful you are bringing this bill and trying to preserve those wonderful old neighborhoods. Just to drive through the neighborhood, you can tell what a gem of the history of Las Vegas it is. We have seen a lot of the neighborhoods downtown that were at one time residential. Old houses are turned into law offices, insurance offices, or medical offices. I do not know if that could ever happen to this neighborhood. Would this bill preclude that or would it still be up to the local authority?

Assemblywoman Swank:
It would be up to the local authority. The buildings you are talking about are in downtown proper, north of Charleston Boulevard where a lot of the 1930s and 1940s houses have been converted. I know that we have seen a little bit of conversion of residential along Charleston and a little along Sahara, but it has not really reached into the neighborhoods. I do not want to speak for the City of Las Vegas, but they have done a good job protecting those neighborhoods as places for people to live; I think they recognize the vibrant downtown life that happens in those neighborhoods. This would not preclude it if the City decided to change the zoning.

Chairman Yeager:
Are there any other questions from the members? [There were none.] Is there anyone who would like to testify in support of this bill, either in Carson City or Las Vegas?

Kelly Crompton, Government Affairs Officer, Office of Administrative Services, City of Las Vegas:
The City of Las Vegas is in support of revising the boundary lines. We definitely want to preserve and protect the historic nature of the area. The district, which was constructed between 1950 and 1952, was found to be historically significant for its post-World War II era architecture designed by prominent local architects, and is an example of suburban

development from that era. The City of Las Vegas is committed to preserving this area as a historic district. In 2012, it was recommended for the National Register of Historic Places. The City of Las Vegas has also designated it on its historic property register.

The entire neighborhood is seeing a lot of revitalization and interest from the community. We believe that redevelopment in the area could have a detrimental effect on the momentum this neighborhood is experiencing, reduce available housing downtown, and decrease neighborhood walkability and connectivity. As you see in downtown, we are trying to bring it back to be a more safe and residential area as we continue to redevelop downtown Las Vegas. We appreciate Assemblywoman Swank for bringing this bill forward.

Assemblyman Pickard:
When you are representing the City of Las Vegas, I am assuming that also includes the Planning Commission and those who initially sought to place the gaming overlay on this area. Is that correct?

Kelly Crompton:
I assume so.

Assemblyman Pickard:
I hope we are not creating an internal conflict. I do not want to substitute my judgment for those who plan and study this. I want to make sure when we hear that the City of Las Vegas is behind this, that its entirety is behind it, and we are not creating another problem that we may hear about again.

Kelly Crompton:
The testimony I prepared is from the City of Las Vegas Department of Planning and specifically our historic preservation officer.

John S. Delikanakis, Private Citizen, Las Vegas, Nevada:
I have listened to the comments and I will tell you that I was part of the neighborhood planning process. As people in my neighborhood and my neighbors went through that lengthy process in working with the City, we became aware of the gaming overlay. We were all very distressed by it. At the time the neighborhood plan was put into place, we were told this was a legislative fix and it would be best to wait until we had our opportunity at the Legislature to address this concern. I am happy to see Assemblywoman Swank has brought this bill, and we now have an opportunity to address this concern.

My thought as a capitalist is that we always look for the highest and best use of the land. Since 1982, when this overlay was put in place, and we now have a dedicated group of citizens who are willing to live in that neighborhood, upgrade their homes, and go through the process of seeking historic designation, there has been no attempt to develop a gaming property on that parcel of our neighborhood. I think that speaks volumes as to what is the highest and best use when one considers that downtown and the City of Las Vegas are dedicated to creating a core of people who actually live downtown. I think they have been

succeeding, and this bill is another plank in that structure to help make downtown a good place to live.

Assemblywoman Cohen:
Have you seen the neighborhood change and, if so, how has that change been?

John Delikanakis:
When we first moved there, the market was rising until about the third quarter of 2007. Up until that point, the neighborhood was having a genuine renaissance. We had people who were purchasing the homes, fixing them up, and living there. It was an interesting mix because we had some of the original residents who were in their late 80s, cab drivers, a lot of teachers, a lot of professors from the University of Nevada, Las Vegas, and a lot of young professionals. Like many neighborhoods in the Las Vegas Valley, it took a hit after the collapse of the real estate market. There were a number of foreclosures, but I am happy to say not as many as in other parts of the Valley. I think the neighborhood is back on the rise, evidenced by the fact that the neighborhood got together to undertake the historic designation process. That tells me that I live with a lot of people who are long-term owners who are not going to leave the neighborhood, who are not transient in nature, and who are willing to give of their own time to engage in that process.

Chairman Yeager:
Are there any questions from the members? [There were none.] Is there anyone else who wishes to testify in support?

Poly Schmitt, President, Beverly Green Neighborhood Association, Las Vegas, Nevada:
I currently serve as the president of the Beverly Green Neighborhood Association. I am here to support A.B. 219. I live in the neighborhood that is designated in the bill. I have lived there for almost seven years and have seen genuine interest in the neighborhood in preserving these beautiful homes. There is a real sense of pride in living there. The neighbors know and help each other. We have some neighbors who have been there longer than I have been alive, and I am 45 years old.

The gaming overlay would encourage the type of development that would lead to the demolition of about half our neighborhood, as we heard from Assemblywoman Swank, and that would devastate our neighborhood. We are very tight-knit; our neighbors actually know each other. I know that is a rare thing in Las Vegas. I just wanted to testify to the beauty of living in a neighborhood like that.

Chairman Yeager:
Are there any questions? [There were none.] Is there anyone in Carson City or Las Vegas who wishes to testify in opposition to the bill? [There was no one.] Would anyone like to testify in the neutral position? [There was no one.] I would like to invite Assemblywoman Swank to come back up to the table and provide any concluding remarks.

Assemblywoman Swank:
Thank you. If you have any questions after the hearing, do not hesitate to stop me in the hallway. I am always happy to talk about cool old neighborhoods.

Chairman Yeager:
We will close the hearing on A.B. 219. Is there anyone in Carson City or Las Vegas who wishes to give public comment? [There was no one.] This meeting is adjourned [at 10 a.m.].

RESPECTFULLY SUBMITTED:

_____
Linda Whimple
Committee Secretary

APPROVED BY:

_____
Assemblyman Steve Yeager, Chairman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.