

HOUSE COMMITTEE ON LAND USE

March 14, 2005 Hearing Room 50

1:30 P.M. Tapes 39 - 40

MEMBERS PRESENT: Rep. Bill Garrard, Chair

Rep. Gordon Anderson, Vice-Chair

Rep. Mitch Greenlick, Vice-Chair

Rep. Robert Ackerman

Rep. Mary Nolan

Rep. Patti Smith

Rep. Mac Sumner

STAFF PRESENT: Sam Litke, Committee Administrator

Lindsay Luckey, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2618 – Public Hearing

OAPA – Informational Meeting

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/# Speaker Comments

TAPE 39, A

002 Chair Garrard Calls the meeting to order at 1:36 p.m. and opens a public hearing on HB 2618. Announces there will be a second public hearing with a work session following on Monday March 21, 2005.

HB 2618 – PUBLIC HEARING

004 Sam Litke Committee Administrator. Introduces the provisions of HB 2618.

010 Mike McCarthy Farmer, Hood River County. Submits written testimony (**EXHIBIT A**) and speaks in opposition to HB 2618. Responds to a previous question from Rep. Patti Smith about what specific problems he has encountered from non-farm dwellings.

050 Chair Garrard Asks what kind of problems would require him to call the police.

053 McCarthy Describes a situation in which some of his trees were cut down resulting in three lost years of production, valued at \$1200. The court found in his favor but he never received damages.

075 Chair Garrard Asks who the perpetrators were.

077 McCarthy Responds they were neighbors on the “ranchette” next door.

091 McCarthy Describes two other examples of damages caused by those in adjacent dwellings in a farm zone. Discusses merits of the \$80,000 income test to insure farming motivations on farm land.

154 Rep. Greenlick Questions if this kind of test should apply for exclusive farm use (EFU) in places with less fertile lands.

174 McCarthy Responds that the \$80,000 test only applies to high value farmland and is a good way to distinguish those “serious” about farming and those who are not.

184 Rep. Greenlick Comments that HB 2618 suggests that other measures, like soil class, be taken into consideration. Asks if McCarthy thinks this “opens the door” as it is his impression that lots of EFU-zoned (Exclusive Farm Use) land is not really Category 1.

- 195 McCarthy Responds he thinks it is possible under some conditions. Argues against allowing counties decide and promotes state-wide standards which allow the best land to be kept without additional houses.
- 204 Chair Garrard Remarks that many farmers in eastern Oregon would disagree and are not making the \$80,000 mark. Asks how much land McCarthy farms.
- 206 McCarthy Answers that he farms 110 acres.
- 220 Clif Kenagy Retired farmer, Benton County. Submits and reads from written testimony in opposition to HB 2618 (**EXHIBIT B**).
- 250 Kenagy References chart titled “Average Gross & Average Net Income on Oregon Farms ('97 Census)” (**EXHIBIT B, Page 2**). Enumerates six types of complaints he has received from neighbors (**EXHIBIT B, Page 3**).
- 293 Kenagy Enumerates 14 complaints about his neighbors and damages they have caused (**EXHIBIT B, Page 3**).
- 345 Kenagy Continues reading complaints against neighbors (**EXHIBIT B, Page 4**).

TAPE 40, A

- 010 Don Schellenburg Oregon Farm Bureau. Notes intention of HB 2618 is to allow more farm dwellings on EFU farmland. Reviews changes made in farm dwelling criteria noting various options other than the \$80,000 income test to qualify for a farm dwelling. Urges committee to support the proposed 30 year review of the land use planning system and make the changes suggested in HB 2618 within that context.
- 078 Chair Garrard Reads from HB 2618 that the Department of Land Conservation and Development (DLCD) must take into consideration “the capability of the lot or parcel” and asks how that would be done.
- 084 Schellenburg Responds that it is vague but that he suggests the income test does that.
- 092 Rep. Greenlick Asks where the \$80,000 income test is described.

094	Schellenburg	Responds that it is in the Land Conservation and Development Commission (LCDC) administrative rules.
097	Rep. Greenlick	States it is his understanding that there are two different statutes.
099	Schellenburg	Responds they are the same but are listed in two different places.
102	Rep. Greenlick	Asks how HB 2618 will change the requirements for the \$80,000 test and how it will direct DLCD to alter their actions.
115	Schellenburg	Responds that HB 2618 directs DLCD to look at other qualifications beyond the income test.
120	Rep. Greenlick	Comments that the income test is not the only option, just the only one adopted. Asks where the \$80,000 test is described.
125	Litke	Responds that it will be found in OAR 660-33 and not found in state statutes.
130	Rep. Greenlick	Asks if they could change their procedure immediately.
132	Litke	Responds affirmatively and relays that HB 2618 will direct LCDC to adopt new rules.
134	Schellenburg	Discusses the definition of “in conjunction with farm use”.
138	Chair Garrard	Closes public hearing on HB 2618 to be continued on Monday March 21, 2005 and opens an informational meeting on the Oregon Chapter of American Planning Association.

OREGON CHAPTER OF AMERICAN PLANNING ASSOCIATION – INFORMATIONAL MEETING

145	Stephen Kafoury	Oregon Chapter of American Planning Association (OCAPA). Introduces panel.
182	Bob Clay	President of the OCAPA. Introduces pamphlet titled “Summary of Legislative and Policy Positions” (EXHIBIT A, Pages 1-2) and enumerates general topics of interest. Discusses range of planners’ functions.

- 240 Clay References a recent article titled “It is Time to Re-engage Oregonians in Land Use Planning” from the OCAPA newsletter (**EXHIBIT A, Pages 3-4**).
- 260 Clay References and discusses an OCAPA executive summary of a report titled “An Evaluation of Planning in Oregon 1973-2001” (**EXHIBIT A, Pages 5-8**).
- 310 Clay Elaborates on the differences between the role of long-range planners and case planners. Gives three examples of long-range planning developments currently in progress.

TAPE 39, B

- 013 Rep. Greenlick Offers personal condolences.
- 016 Chair Garrard Adds committee’s sentiments.
- 020 Philip Farrington Vice-President, OCAPA. Reviews his planning background and projects in progress. Notes award winning project combining preservation of wetlands and industrial lands. Emphasizes planners’ facilitation of many interests for the benefit of the community at large.
- 063 Reeve L. Hennion Chairman, Jackson County Planning Commission. References the COPE (Committee on the Oregon Planning Experience) report. Discusses the role of planning commissioners. Expresses importance of citizen involvement earlier in the planning process.
- 120 Hennion Outlines the make-up of the Jackson County planning commission.
- 144 Hennion Discusses Jackson County’s plans in implementing Measure 37 (2004) in the absence of clarification from the legislature. Outlines long-term regional growth planning in Jackson County.
- 225 Hennion Makes distinctions about what is within planners’ scope of authority.
- 240 Hennion Describes his experience as a small business owner in Medford and difficulties involved in the process.
- 283 Rep. Greenlick

Refers to Hennion's comments on the White City circumstance. References a floor letter from OCAPA against the bill allowing industrial and commercial development on areas zoned for industrial and commercial development but outside city limits (HB 2458). Asks how their position on HB 2458 relates to the hopeful development of White City.

- 300 Hennion Responds that White City is a special case and is defined under state law as an urban unincorporated community under state law with definitive boundaries.
- 315 Kafoury Continues that their concern is that HB 2458 would not only allow development within confined areas, rather urban developments within rural areas.
- 330 Rep. Greenlick Interjects that the development would be in areas already zoned industrial and commercial and asks for further explanation of their position.
- 355 Kafoury Discusses the process of zoning when land use planning came into effect in Oregon. Asserts they are opposed to the bill and urban development in rural areas even if they are zoned industrial.
- 383 Chair Garrard States that Kafoury's comments runs contrary to Don Schellenberg's testimony. Distinguishes their comments by the importance placed on what is already located in a certain area.
- 400 Kafoury Disagrees with the distinction.
- 410 Chair Garrard Restates understanding of Kafoury's testimony that a local business zoned in a certain area wouldn't necessarily open the door for larger companies in the same area.
- 420 Kafoury Clarifies his example emphasizing serving the needs of the rural community versus urban development outside of cities.

TAPE 40, A

- 008 Rep. Anderson Responds that they should allow flexibility for growth and encourage small nodular development.
- 025 Farrington

Comments that Rep. Anderson's position is in line with what the OCAPA would promote. Adds that the OCAPA tries to match appropriate types of industry with the infrastructure in place to serve them.

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| 041 | Rep. Anderson | Discusses example of Silicon Valley, California and how development may have been shifted elsewhere if they'd had policies similar to what OCAPA is recommending. |
| 050 | Hennion | Agrees with Rep. Anderson and reiterates the importance of infrastructure. |
| 067 | Rep. Anderson | Agrees. |
| 072 | Kafoury | Discusses the different meanings of "rural" and "urban" as they relate to services provided and the size of the community. |
| 091 | Rep. Anderson | Points out that new technologies are allowing infrastructure in new areas and possible growth. |
| 095 | Rep. P. Smith | Clarifies that the bill she will carry on the floor (HB 2458) does not allow services to be connected and will allow for local control. |
| 101 | Rep. Greenlick | Wonders about political motives behind the floor letter from OCAPA on HB 2458. Speculates that they would be in favor of good planning not a particular planning model. |
| 121 | Clay | Outlines process for developing positions on legislative policy. Gives an example from Portland. |
| 160 | Kafoury | Suggests Clay address their position on allowing counties to make decisions within. |
| 165 | Clay | Discusses the framework between the state and local level. |
| 172 | Chair Garrard | States that Clay's position contributed to Measure 37. Comments that planners are the "victims" of Measure 37 and anticipated new annexation laws disallowing them to plan. Asks for a response to those issues. |
| 190 | Clay | |

		Discusses response to Measure 37 and annexation. Describes hesitation with “direct democracy” model but agrees on need for more citizen involvement.
216	Chair Garrard	Asserts planners aren’t heeding the people’s wishes.
224	Rep. Greenlick	Comments that it is the job of planners to facilitate other people’s visions rather than planners’ vision.
235	Kafoury	Describes the planners’ role as adhering to goals envisioned by the people. Reports that it may be time to review the goals with citizen participation, an issue addressed in SB 82.
257	Hennion	Refers to the COPE report and its primary recommendation of a review of statewide land use. Expresses strong support for SB 82 and hope that the legislature will address the issue of fairness in regards to Measure 37.
310	Rep. P. Smith	Adds that over a million people voted for Measure 37 and states that is “good citizen involvement”.
325	Chair Garrard	Adjourns the meeting at 3:30 p.m.

EXHIBIT SUMMARY

- A. **HB 2618, written testimony, Mike McCarthy, 3 pp**
- B. **HB 2618, written testimony, Clif Kenagy, 4 pp**
- C. **Oregon Chapter of American Planning Association, informational packet, Bob Clay, 16 pp**