HOUSE COMMITTEE ON LAND USE

April 15, 2005 Hearing Room MEDFORD CITY HALL

6:30 P.M. Tapes 63 - 66

MEMBERS PRESENT:	Rep. Bill Garrard, Chair
Rep. Gordon Anderson, Vice-	Chair
Rep. Mitch Greenlick, Vice-C	hair
Rep. Robert Ackerman	
Rep. Patti Smith	
Rep. Mac Sumner	
MEMBER EXCUSED:	Rep. Mary Nolan
VISITING MEMBERS:	Rep. Peter Buckley

Rep. Sal Esquivel Rep. Dennis Richardson

Sen. Doug Whitsett

STAFF PRESENT: Sam Litke, Committee Administrator

Lindsay Luckey, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2484 – Work Session

HB 2705 – Work Session

Measure 37 Testimony

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

TAPE/#	Speaker	Comments
TAPE 63,	Α	
002	Chair Garrard	Calls the meeting to order at 6:38 p.m. and expresses thanks to the city of Medford and the Council and acknowledges Keith Strosser. Invites members and visiting members to introduce themselves.
011	Rep. Peter Buckley	HD 5. Introduces himself.
015	Rep. Mac Sumner	HD 18. Introduces himself.
	Rep. Bob Ackerman	HD 13. Introduces himself.
	Rep. Mitch Greenlich	k HD 33. Introduces himself.
	Sam Litke	Committee Administrator. Introduces himself and staff.
	Rep. Gordon Anderson	HD 3. Introduces himself.
	Rep. Patti Smith	HD 52. Introduces herself.
	Rep. Dennis Richardson	HD 4. Introduces himself.
	Rep. Sal Esquivel	HD 6. Introduces himself.
	Sen. Doug Whitsett	SD 28. Introduces himself.
070	Chair Bill Garrard	HD 56. Introduces himself and states that visiting members may participate in the discussion but only members of the committee may vote. Opens a work session on HB 2484.

HB 2484 – WORK SESSION

139

Sam Litke	Committee Administrator. Explains that HB 2484 would require a double majority in order to annex territory.
Chair Garrard	Reports that public hearings have been held and that a task force was formed to make recommendations to the committee. Introduces Dawn Phillips, chief of staff to Rep. Jerry Krummel who chaired the committee.
Dawn Phillips	Chief of Staff for Rep. Jerry Krummel, HD 26. Submits the work group's report to the committee recommending passage of HB 2484 without amendments (EXHIBIT A).
Rep. Greenlick	Reports that he was unable to attend the meeting and the amendments he was interested in were not able to be discussed.
Chair Garrard	Announces they will accept the -7 amendments but not move HB 2484 out of committee tonight.
Rep. Ackerman	Submits -7 amendments (EXHIBIT B).
Rep. Ackerman	MOTION: Moves to ADOPT HB 2484-7 amendments dated 4/1/05.
Rep. Ackerman Rep. Ackerman	
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Rep. Ackerman Rep. Greenlick	4/1/05.Explains that the -7 amendments would repeal the authority of Lane County to annex without any vote of the people and provide consistency. Urges adoption of the -7 amendments.Asks Rep. Ackerman if the set of statutes amended only relate to the Lane County Boundary Commission.

Rep. Greenlick	Asks if in another work session they would be permitted to change the bill with another set of amendments.
Chair Garrard	Confirms this.
Rep. Ackerman	Adds that if necessary, Legislative Counsel can explain the effects of the amendments when the bill is up for reconsideration.
Chair Garrard	Asks Rep. Greenlick if he has a problem adopting the -7 amendments today.
Rep. Greenlick	Responds that he does not.
Rep. Anderson	Comments that he would prefer time to digest the amendments and asks if they need to move the -7 amendments now to have discussion.
Rep. Ackerman	Comments he has made a motion.
Rep. Anderson	Asks if the -1 through -6 amendments are incorporated in the -7 amendments.
Rep. Ackerman	Responds negatively.
Rep. Buckley	As a point of information, adds that as a member of the General Government Committee there was a bill before their committee related to the Lane County Boundary Commission. References legislators who testified on behalf of the boundary commission maintaining their authority and recommends alerting those legislators of this amendment.
Rep. P. Smith	Reports that she is not comfortable voting on -7 amendments tonight and requests that Rep. Ackerman withdraw his motion to adopt the -7 amendments.
Rep. Ackerman	Agrees to withdraw his motion to add -7 amendments to HB 2484.
Chair Garrard	Directs staff to reschedule HB 2484 for Wednesday April 20th, 2005. Closes work session on HB 2484 and opens a work session on HB 2705.

HB 2705 – WORK SESSION

	Rep. Richardson	Submits the -4 amendments (EXHIBIT C) and report that they are similar to Rep. Nolan's -3 amendments (EXHIBIT D) except with one sentence removed to clarify her intent. Reviews the provisions of HB 2705 and the -4 amendments. States this is not a Measure 37 (2004) bill and explains it merely solves an environmental and property owners' problem of failing septic systems.
260	Rep. Greenlick	Asks if the sentence removed from the -3 amendments is under Section 2 (3) and reads the sentence.
	Rep. Richardson	Confirms that was the only difference between the -3 and -4 amendments.
	Rep. Greenlick	References previous discussion of existing versus new construction in regards to the bill and asks if $3(a)$ and $3(b)$ have taken care of this question.
	Rep. Richardson	Responds affirmatively. Relays discussion with Dave Hunnicutt who reported that the removal of the sentence represents the consensus reached in the committee.
	Rep. Greenlick	Wants to relay that the intent for new construction was not to allow sewer to be extended into new areas rather to allow service to new dwellings within its area.
300	Rep. Ackerman	References discussion with Hunnicutt at a previous meeting when he conceded HB 2705 would apply to preexisting dwellings with the exception of the dwellings accounted for in the -4 amendments, and reports that there has been no tendering to Section 1 that would limit the initial clustering of these dwellings.
	Chair Garrard	Comments that the issue was discussed.
	Rep. Ackerman	Relays his expectation that this issue would be addressed.
	Chair Garrard	Asks Rep. Richardson if he has an answer to Rep. Ackerman's valid question.
	Rep. Richardson	Remarks he was not involved in the prior discussions and is not familiar with those proceedings.

	Rep. Ackerman	Explains that the -4 amendment would allow another dwelling if it is within the coverage area of the community sewer system and they were going to restrict new dwellings to that area.
	Rep. Richardson	Clarifies that the bill does say if there was to be new constructed dwelling, that would only be allowed if that dwelling could be constructed now. Reads from Section 2 (3) (a).
	Rep. Ackerman	Responds he is satisfied with that point but points out that it was the only exception for a new dwelling to constitute the cluster and believes Section 1 needs to be addressed.
	Chair Garrard	Remarks that there is a -2 amendment (EXHIBIT E) which addresses Rep. Ackerman's point and suggests adopting the -2 and -4 amendments.
	Rep. Ackerman	States that adoption of the -2 and -4 amendments will take care of his concerns.
360	Rep. Greenlick	MOTION: Moves to ADOPT HB 2705-2 amendments dated 4/14/05.
		7/17/03.
		VOTE: 6-0-1
	Chair Garrard	VOTE: 6-0-1
365	Chair Garrard Rep. Greenlick	VOTE: 6-0-1 EXCUSED: 1 - Nolan
365		VOTE: 6-0-1 EXCUSED: 1 - Nolan Hearing no objection, declares the motion CARRIED. MOTION: Moves to ADOPT HB 2705-4 amendments dated

	Rep. Anderson	Notes his disagreement with the amendments but will allow their adoption and states he may vote against the bill on the floor.
		VOTE: 6-0-1
		EXCUSED: 1 - Nolan
	Chair Garrard	Hearing no objection, declares the motion CARRIED.
430	Rep. Greenlick	MOTION: Moves HB 2705 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Nolan
	Chair Garrard	The motion CARRIES.
		REP. RICHARDSON will lead discussion on the floor.
	Chair Garrard	Closes the work session on HB 2705 and opens a public hearing on Ballot Measure 37.

BALLOT MEASURE 37 – PUBLIC HEARING

TAPE 64, A

Chair Garrard Reports that there are 18 bills before the House Land Committee that are related to Ballot Measure 37, on action of the Senate Environment and Land Use Committee, and the committee's intention to create an omnibus bill if necessary as a fix. Outlines top issues of the committee as the transferability of waivers, uniformity of the claims filing process, the type of legal review for challenges and protecting jurisdictions from legal action resulting from Ballot Measure 37 decisions. Reports on the passage of a lot of record bill out of the committee and has a secondary lands bill before it. Discusses a work group formed to discuss Measure 37 issues which resulted in the crafting of SB 1037. Highlights some provisions of SB 1037 including:

• Division of farmland into 3 categories: high value would be preserved and no Measure 37 claims allowed, lands zoned EFU

		 would be categorized as non-high value and non-resource each allowing Ballot Measure 37 claims, and each would allow for greater opportunities to divide property, forest lands are still unresolved Tract of record provision, similar to HB 2549A from Rep. Richardson Also includes a clarified claims filing process
		Reports that the bill has had one public hearing and that legislation may have to originate in the House. Asks those testifying to address the following questions: if they voted for m37, is it doing what they intended, and if they were to change it, what would they change?
083	Randy Shaw	Klamath County. Klamath County Association of Realtors. Remarks he voted yes on Ballot Measure 37 as did those he is represents. Relays the story of a farmer with 600 acres of land of varying productivity who would like to make use of Measure 37 for the benefit of his children. Reports frustration with confusion in the interpretation of Measure 37. Announces his opinion is that the major problem with Measure 37 is the transferability. Recommends zoning changes as modification of Goal 5 rather than waivers. Describes the scarcity of water and its misuse on unproductive lands.
139	Robert Doggett	Government Affairs Chairman, Klamath County Association of Realtors and Klamath County Planning Commission. Reports that people don't want to see valuable land developed but that some land is not zoned correctly. Discusses his concern with transferability of waivers and notes that many farmers depend on selling a portion of their land for retirement. Relays full support of HB 2549.
187	Judson Parsons	Owns and manages farm and forest land in Jackson and Marion County. Reports he voted against Measure 37. Discusses compensation as an important part of the bill and notes that any bills related to new taxes must originate in the house. Outlines possible sources of money and urges a serious look at compensation.
211	Sen. Whitsett	Asks Shaw to comment on the negative impacts on the value of marginal EFU lands of mule dear habitat overlays that prevent divisions of land and give recommendations if any.
	Shaw	Responds that there is one case that has been filed with the County Commissioners now and is based on a removal of that mule dear winter-range overlay in a non-resource zone that has 20 acre minimums. Believes there is some validity to the claim and the concern with mule dear migration and explains the impact of the overlay and discusses difficulties in determining a dollar value.

		Believes that people don't want money, rather an ability to use their land.
255	Karen Carpenter	Eagle Point, OR. States that she voted for Measure 37 and does not support changes to the measure unless they come from Dave Hunnicutt.
	Helen Garner	Jackson County. Submits and reads written testimony describing her family's situation and in support of Measure 37 (EXHIBIT F).
367	Edward E. Carpenter	Eagle Point, OR. Relays his vote for Measure 37. Discusses property zoned aggregate resources.
	Rep. Greenlick	References Mrs. Carpenter's recommendation to leave Measure 37 untouched and relays the belief that leaving Measure 37 untouched leaves uncertainty and notes work to add statutes that will clarify the Measure. Confirms that she would not be opposed to these types of changes.
	Karen Carpenter	Responds that she trusts Dave Hunnicutt and supports his work.
	Rep. Anderson	Appreciates the comment from Mrs. Carpenter and remarks on problems obtaining gravel in Josephine County.
	Chair Garrard	Reports on time spent last session on aggregate concerns stemming from a lawsuit in Roseburg and notes that negotiations are in progress.
TAPE 63 ,	B	
002	Frank Goodson	Klamath County. Klamath County Chamber of Commerce, Committee for Healthy Klamath Economy and Klamath County Homebuilders. Reports that the Klamath County economy is booming and explains reasons for this. Announces his vote for Measure 37 and reports that 75% of the voters in Klamath County. Discusses opposition to making claims non-transferable. In regards to SB 1037, recommends that changes uphold the intent of Measure 37. Also suggests that forest range land class five, six and worse in Klamath County are reclassified as secondary lands to be opened up for more development. Reiterates that Klamath's secondary lands are an important resource.

		Real Estate, Illinois Valley. Forest commercial zone lands and wood lot resource zone lands. Relays his biggest concern with Measure 37 is the transferability issue. Discusses amount of land controlled by the state in Josephine County and the resource that homeowning tax payers are. Urges committee to adjust Measure 37 to allow for legal lot of record and states Oregon can be a model, not for overdevelopment, but for "commonsense approach" in future development.
086	Bill Ryan	Jackson County Farm Bureau. Reports that some farm bureaus have joined a suit against Measure 37 but they represent only 5 out of 37 counties. Remarks on the high percentage of voter passage and while some ambiguities need to be cleared up, the basis of Measure 37 is right. Discusses the cities of Central Point and Eagle Point expanding into farm land and asserts that LCDC (Land Conservation and Development Commission) is not working in Southern Oregon. Concludes that Measure 37 needs to have some things defined and explained and urges the committee to consider Oregonians in Action when making those changes.
	Rep. P. Smith	Asks the panel if they have any comment on the "lot of tract" that is in SB 1037.
	Frick	Asks for explanation.
	Rep. P. Smith	Explains that her reading of the bill defines "lot of tract" as having one house on a tract and its application in Measure 37.
	Frick	Responds he is not familiar with this point.
134	Rep. Buckley	In regards to "tract of record" and "lot of record", asks for comments on why one would be preferable to the other.
	Frick	Clarifies that a "tract" would be a parcel of land.
	Rep. Buckley	Confirms.
	Frick	Describes his litmus test as public safety, road ways, septic and well conditions, and the intent was legal lot of record on that to build a house, believes it should be allowed to be developed on. Gives example of this test in woodlot resource zone.

Goodson

		States his agreement with Frick adding that any tract or lot of record which created legally and passes litmus test should be allowed to be built on. Remarks on the Measure 37 standard of time of ownership and points out that many parcels have been reconveyed.
145	Rep. Anderson	Clarifies that "lot of record" meant that one could build a single family dwelling on one parcel and "tract of record" means one can build one house on a tract, which could be 200 acres.
	Frick	Notes the difference and reports he would be in opposition to that.
190	J. Michael Lanier	Vice-President, Richard Stevens & Associates, a land use consulting firm. Submits written testimony raising issues about Measure 37 (EXHIBIT G) and summarizes its contents.
248	Deborah Miller	Jackson County. Describes her concerns about the passage of Measure 37 and recalls how Governor McCall's vision has protected Oregon. Asserts that the measure was so loosely written that the legislators are charged with writing the implementing ordinances and suggests a two tiered approach. Calls for tests of validity for claims and asks that speculators do not receive special treatment. Gives an example of an excessive Measure 37 claim. Asks for wording that would deal with frivolous suits. Reiterates her concerns of validity of claims, the future of agriculture and issues of fairness.
330	John Graves	Grower, Phoenix. Relays his proximity to the urban growth boundary (UGB) of Phoenix and the problems he has incurred. Discusses his concern with a bordering property which applies for a Measure 37 claim and the effect it will have on neighboring farms. Urges the committee to consider compensation and asserts that waivers will hinder farming.
	Dorothy Mitchell	Ashland, OR. Describes her property and her interest in developing a portion of the property. Discusses problems in Measure 37 disallowing the proposed development. Recommends that waivers or compensation "go with the land".
TAPE 64,	В	
017	Traute Moore	Wine grape farmer in the valley. Points out that high value farmland for grapes is Class three and four lands not just Class one and two. Submits and summarizes written testimony suggesting considerations for Measure 37 (EXHIBIT H).

	Chair Garrard	Thanks Moore for bringing up the issue of vineyards and comments on their future.
056	Chris Skrepetos	Ashland, OR. Submits and reads written testimony outlining suggestions for clarifying Measure 37 (EXHIBIT I).
150	Skrepetos	Urges committee to read the remainder of his testimony addressing the issue of compensation (EXHIBIT I, Page 3-5).
176	Rep. Buckley	Comments on the information on vineyards and references a statement John Wiesenger, Oregon Chair of the Wine Association. Asks if Mrs. Mitchell thinks it would be a fair course for the state to make the right of compensation transferable.
	Mitchell	Responds affirmatively and remarks on the difficulties of developing land at this stage in her life.
	Rep. Buckley	Clarifies his distinction.
	Mitchell	Responds that compensation would be great.
211	Ronald Bjork	President, Jackson County Farm Bureau. Reports Jackson County Farm Bureau's actions in support of Measure 37. Explains his belief of the intent of Measure 37. Also reports farming next to subdivisions for years without many problems.
	Rich Fairbanks	Applegate. Has worked in forest management since 1972. Relays his observations of other western states forest management and asserts that Oregon land use works with respect to forests. Outlines problems averted and benefits realized with Oregon land use system. Stresses that the ballot title of Measure 37 included the text "Government shall pay" rather than "creating a privileged class" of land owners who acquired their land earlier than others. Urges compensation over waivers.
290	Jack Benedict	Realtor in the Valley. Discusses private property ownership and its benefits. Remarks that Measure 37 corrects wrongdoings of the past and is a good start. Discusses issues of irrigation and water rights. Stresses transferable property rights. Comments on Rep. Richardson earlier statement on multiple sewer systems.
340	Rick Harris	Real estate broker, Talent. Raises issues of importance with regards to transferability and concerns about compensation.

390	John Zupan	Ashland. President, Rogue Valley Association of Realtors. Asserts that most people want to use their land for what they purchased it for. Reviews legislative history of lot of record and Measure 37 issues. Urges the committee to come to a compromise which allows people to use their land without costing taxpayers in the form of compensation.
TAPE 65,	Α	
003	Trish Bowcock	Jacksonville, OR. League of Women Voters of Rogue Valley. Urges the committee to provide a mechanism for compensation, clarify ambiguities and use caution to respect Oregon land use laws. References her testimony as adopted from a detailed statement from the Oregon League of Women Voters.
023	Chair Garrard	Asks, in reference to the discussion of compensation, where the money would come from.
	Bowcock	Responds that it is a tough question but that there are other avenues beyond taxation. Stresses that compensation is in the measure.
	Chair Garrard	Assures Bowcock that the committee will give compensation a serious consideration.
	Rep. Sumner	Asks what is accomplished after a property owner has been compensated.
	Bowcock	Responds that compensation should be carefully considered but remarks the League is not advocating that every property owner be compensated, rather that compensation is included in the procedural mechanism in Measure 37 claim review.
	Rep. Sumner	References estimates between \$500 million and \$1 billion to provide for compensation of Measure 37 claims from counties and the state.
045	Bowcock	Responds that she is not familiar with these statistics. Adds that numbers were provided to voters and they voted yes on the measure.
	Rep. Anderson	Comments that they could fund that today but notes conflict with K-12 funding.
	Rep. Ackerman	

		Brings up that the text of the measure states that compensation can only be paid if the public entity specifically appropriates money for that purpose and if you are not paid within 2 years than judgment for money converts to a waiver.
	Rep. Esquivel	Remarks on meaning of the term "compensation" and reviews history of Jackson County zoning. Remarks that Measure 37 needs some crafting but nothing that changes the intent. Comments on concerns of transferability and living trusts. Concludes that the people want property rights and that it is not about compensation.
096	Rep. Greenlick	Comments that most people voting for Measure 37 assumed it was to compensate or redress issues in the past, but that as it is written it now goes forward into perpetuity effected future land use actions. Asks Bowcock if some of the compensation argument stems from taking some of the value from the winners of future land use actions to compensate for the losers.
	Bowcock	Responds that this issue is out of her jurisdiction but refers the committee to the detailed statement from the Oregon League of Women Voters.
136	Bob Valladao	Klamath County. Remarks that he voted no on Measure 37. Stresses the language "just compensation" in the text of the measure. Suggests in the absence of funds to pay for claims that a moratorium be placed on Measure 37 for 5 years. Relays his belief that Measure 37 will damage agriculture in Oregon. In reference to earlier testimony on low value lands in the Klamath County, notes the lands are cattle range which is the number one commodity in Klamath County. Gives examples of farm land in the area and reiterates the damage Measure 37 will do. Stresses that voters voted for just compensation.
189	Stephen Williams	Small farmer, Josephine County. Describes two proposals in Josephine County and uses them as examples of the need for a compensation provision. Relays an idea for compensation as charging a small percentage on each real estate transaction for the many people moving to Oregon.
213	Robert Merriam	Grant's Pass. Reports his vote against Measure 37. Discusses problem of finding money to compensate land owners leaving the alternative of granting permits which disregards the land use laws. Remarks on Oregon's good land use planning reputation. Notes the difficult position of counties who lack funds to pay for compensation and asks that the committee save land use planning and promote orderly planned development.

265	Rep. P. Smith	Remarks on her cattle farming and notes her concern with Valladao's comment that Measure 37 would effect the agricultural community and asks how the neighboring ranches sold to doctors and lawyers would file a measure 37 claim.
	Valladao	Responds that they are buying the land for speculation in the hope that they would eventually get a waiver.
292	Peggy McCain	Realtor, Grant's Pass. Discusses issues of private property ownership. Asserts that she has not come across one property owner who wants compensation for Measure 37. Describes flexibility in land use and transferability as important issues.
351	Glenn Archambaum	Feed Lot Operator. Notes his presence to help with the "nuts and bolts" of the management of Measure 37. Describes himself as a plaintiff and defendant in a series of lawsuits lasting from 1993 regarding land use. Describes the situation leading to the lawsuits relating to illegally created lots.
405	Chair Garrard	Remarks that the committee has just heard bills relating to illegal lots conveyed to unsuspecting people.
	Archambaum	Makes the case for an organized claims process to avoid the kind of legal issues he has encountered.
434	Sen. Whitsett	Asks for the site of the appeals case.
	Archambaum	Give information.
TAPE 66, A	A	
	Calvin Martin	Discusses aspects of Oregon land use and describes land in Jackson County improperly designated EFU and land that should be designated EFU but is being developed on. Relays a Measure 37 claim from a client on the UGB (urban growth boundary) of Medford. Discusses unintended consequences of setting UGBs. States there needs to be relief for cost and availability of property, while attention to paid to high value farmland.
090	Tonya Graham	Ashland, OR. Executive Director, Headwaters. Describes the goals of her conservation organization. Outlines unique features of Oregon. Makes a distinction between voters' intent to address inequity in the land uses system rather than opening the doors for

		development. Urges the committee to consider future generations when crafting their legislation.
123	Lyle Woodcock	Applegate, Josephine County. Discusses issues of compensation. Relays difficulties of making a profit in farming.

The following material is submitted for the record without public testimony:

Brent Thompson	Jackson County. Submits written testimony making recommendations to the committee in addressing Measure 37 (EXHIBIT J) .
Lyn C. Horstemeier	Jackson County. Submits written testimony addressing Measure 37 issues (EXHIBIT K).
Doug Olson	Medford. Submits written testimony addressing Measure 37 issues (EXHIBIT L) .
Porter Lombard	Medford. Submits written testimony with comments on HB 1037 (EXHIBIT M) .
Chair Garrard	Closes the public hearing and adjourns the meeting at 9:30 p.m.

EXHIBIT SUMMARY

- A. HB 2484, recommendation of work group, Dawn Phillips, 1 p
- B. HB 2484, -7 amendments, Rep. Ackerman, 52 pp
- C. HB 2705, -4 amendments, Rep. Richardson, 2 pp
- D. HB 2705, -3 amendments, Rep. Nolan, 2 pp
- E. HB 2705, -2 amendments, staff, 1 p
- F. Measure 37, written testimony, Helen Garner, 2 pp
- G. Measure 37, written testimony, J. Michael LaNier, 3 pp
- H. Measure 37, written testimony, Traute Moore, 2 pp
- I. Measure 37, written testimony, Chris Skrepetos, 5 pp
- J. Measure 37, written testimony, Brent Thompson, 1 p
- K. Measure 37, written testimony, Lyn C. Horstemeier, 1 p
- L. Measure 37, written testimony, Doug Olson, 2 pp
- M. Measure 37, written testimony, Porter Lombard, 1 p