

## **HOUSE COMMITTEE ON LAND USE**

**April 04, 2005 Hearing Room 50**

**1:30 P.M. Tapes 54 - 55**

**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 2931– Public Hearing**

**HB 3312 – Public Hearing**

**HB 3286– Public Hearing**

**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.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
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## TAPE 54, A

002 Chair Garrard Calls the meeting to order at 1: 35 p.m. and opens a public hearing on HB 2931.

### **HB 2931 – PUBLIC HEARING**

Sam Litke Committee Administrator. Introduces HB 2931.

Rep. Donna Nelson HD 24. Notes her sponsorship of HB 2931 at the request of her constituents, James and Susan Ruggles. Reads testimony on behalf of James and Susan Ruggles advocating public notice and public hearings on Measure 37 (2004) claims (**EXHIBIT A**). Reads additional testimony on behalf of Frances and Michael O'Brien (**EXHIBIT B**). Reviews provisions of HB 2931. Reports her vote for Measure 37 and her intention to make sure it is applied appropriately.

069 Rep. Ackerman Comments that he does not argue with the concept of the proposal but reports that in HB 2931 a claim may not proceed without a public hearing. Reports that in SB 1037 they would determine the viability of the claim before they do public hearings. Asks if she would disagree with that concept.

089 Rep. Nelson Agrees with the concept and elaborates on her local planning division.

100 Rep. Nolan Asks if Rep. Nelson thinks there should be a minimum threshold for claims before a public body should hold a public hearing.

106 Rep. Nelson Responds that she does not know and offers to research that issue.

108 Rep. Nolan Asks if Rep. Nelson would advocate for a public hearing in any case regardless of the amount of the claim.

Rep. Nelson Responds that she has not looked at the issue in that light. Discusses the varying amounts for claims and asserts that public notices and hearings would probably not be very costly and is the democratic thing to do.

125 Rep. Nolan Responds that she is not quarreling with the notion of notice, but wants to know if Rep. Nelson thinks there should be two weeks notice

in advance of public hearings given when a public body wants to spend any amount of money.

	Rep. Nelson	Responds that it is an excellent thing to do and discusses the publications in her area.
134	Rep. Anderson	Notes that there is not the wording to indicate hearings in the initiative itself. Asks if Rep. Nelson thinks her constituents were considering that this may be a mandate on cities and counties without funding.
145	Rep. Nelson	Replies that this was a shared concern and that she would like to see this concept as part of an omnibus bill related to Measure 37.
	Rep. Nelson	Extends birthday greetings to committee administrator and initiates singing of Happy Birthday.
165	Lane Shetterly	Director, Department of Land Conservation and Development. Notes intention to give general comments with regard to public hearings. Reports that the state process, as following the Department of Justice's advice, does not provide for public hearing but does provide notice to adjoining property owners with the possibility to respond with written comments. Discusses logistical issues that would prohibit holding hearings on every claim.
223	Art Schlack	Association of Oregon Counties. Seconds most of the comments made by Director Shetterly. Discusses variety of ordinances adopted by counties to deal with Measure 37 claims, including public hearings and public notice. Frames issue as part of the larger Measure 37 issue. Raises the issue of cost. Reiterates that the question of public hearings should be a local decision.

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

Merilyn Reeves	Friends of Yamhill County. Submits written testimony in support of notification of neighbor and public hearings in regards to Measure 37 claims ( <b>EXHIBIT C</b> ).
Chair Garrard	Closes the public hearing on HB 2931 and open a public hearing on HB 3312.

## **HB 3312 – PUBLIC HEARING**

290	Sam Litke	Committee Administrator. Introduces provisions of HB 3312.
	Chair Garrard	Closes the public hearing on HB 3312 and opens a public hearing on HB 3286.

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## **HB 3286 – PUBLIC HEARING**

320	Sam Litke	Committee Administrator. Introduces the provisions of HB 3286.
360	Joe Willis	Oregon Uniform Law Commissioner, National Conference of Commissioners on Uniform State Law. Commends Litke's statements and further explains that the bill would take away problems with common law. Describes origin of the bill and purpose of the conference.

## **TAPE 55, A**

	Willis	Discusses possible concerns from the Department of Environmental Quality (DEQ) including some technical omissions which he intends to correct. Outlines time constraints and parties involved. Urges the committee to look favorably on HB 3286 with the specified conditions.
037	Rep. Greenlick	Gives an example of voluntarily adding environmental easements onto one's property and asks if the bill includes this type of thing.
047	Willis	Respond negatively but that it is akin to what Rep. Greenlick has described.
060	Chair Garrard	Asks if one could buy a piece of property that was in a brown field situation, at any stage develop under this bill, develop an environmental covenant and then sell the land.
064	Willis	Responds that currently that situation would probably not happen because by law the liability for the clean up transfers to the new owner. With the covenant in place, the transfer could be made but the transferee would be limited to using the property pursuant to the covenant.

076	Chair Garrard	Gives the hypothetical example of a prime piece of real estate which is contaminated, put on the market with a distressed price and asks if under this there would be nothing stopping the owner and the seller agreeing to a covenant and then selling the property.
	Willis	Thinks you would also have to have the regulatory community involved in approving the covenant.
	Chair Garrard	Adds that was his assumption and confirms that with previous mentioned specifications nothing would stop that sale.
	Willis	Believes the concept is correct and adds one other possibility.
100	Bob Danko	Department of Environmental Quality (DEQ). Introduces Charlie Landman. Reports that DEQ is neutral on this bill and already do much of what the bill is suggesting they do. Notes their decision not to bring this issue forward as a legislative concept. Outlines technical concerns with the bill if the committee decides to move forward. Discusses having more time to confer with interested parties. As an alternative, recommends an interim work group to look at existing clean-up laws.
166	Charlie Landman	Mentions it is Danko's birthday as well.
173	Chair Garrard	Asks if Joe Willis would be agreeable to assisting DEQ in their interim work group and having HB 3286 amended.
180	Willis	Responds that from the National conference point of view that it not disagreeable but that their preference is to move forward. Raises concerns in waiting until the next session.
	Chair Garrard	Asks Danko if 30 days would be enough time to contact interested parties.
	Danko	Responds affirmatively but that it would be difficult.
	Chair Garrard	Asks if it is agreeable to Willis to come back on May 2nd .
	Willis	Responds affirmatively and notes intention to immediately remove technical errors.

Schedules for the two parties to return on May 2nd and closes the public hearing on HB 3286. Adjourns the meeting at 2:21 p.m.

### **EXHIBIT SUMMARY**

- A. **HB 2931, written testimony, Rep. Donna Nelson on behalf of James and Susan Ruggles, 1 p**
- B. **HB 2931, written testimony, Rep. Donna Nelson on behalf of Frances and Michael O'Brien, 1 p**
- C. **HB 2931, written testimony, Merilyn Reeves, 1 p**