HOUSE COMMITTEE ON LAND USE

May 02, 2005 Hearing Room 50

1:30 P.M. Tapes 77 - 80

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 3463 – Public Hearing and Work Session

HB 3286 – Work Session

HB 3313 – Work Session

HB 3135 – Work Session

HB 2963 – Work Session

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

TAPE/#	Speaker	Comments
TAPE 77, A		
002	Chair Garrard	Calls the meeting to order at 1:37 p.m. and opens a public hearing on HB 3463.
<u>HB 3463 – PUBLIC HEARING</u>		
018	Rep. Kitts	HD 30. As sponsor of HB 3463, speaks in support of HB 3463. Passes around photos of the Pat's Acres Raceway in Canby and explains the photos. Explains that the problem is that the race track is zoned for go-carts only and describes their intention to extend the use the allow the operation of vehicles conducive to the existing track.
056	Chris Egger	Owner, Pat's Acres Raceway. Explains their need to expand the use of their track and discusses the people who use their track.
075	Rep. Ackerman	Asks if the raceway is operating under a conditional use permit now.
	Egger	Responds affirmatively.
	Rep. Ackerman	Verifies that it restricts them to the one current use.
	Egger	Confirms this.
	Rep. Ackerman	Asks if they want to expand to include motorcycles.
	Egger	Responds they wish to include motorcycles and other vehicle conducive to the track.
	Rep. Kitts	Adds other vehicles that would apply and explains the reason for the broadness of the language.
	Rep. Ackerman	

		Asks if the constituents have gone to the County to seek this expansion under the conditional use permit and if so, for the result.
	Rep. Kitts	Explains that they have and defers to Egger.
100	Egger	Outlines the situation leading to the County's involvement.
	Rep. Kitts	Elaborates and references the aerial photo.
	Rep. Ackerman	Asks them if they have asked the county to expand the conditional use permit to allow what they are seeking today.
	Rep. Kitts	Responds that they have.
	Rep. Ackerman	Asks if this bill will overturn the county commissioner decision.
	Rep. Kitts	Responds negatively and elaborates.
137	Rep. Greenlick	Comments that the definition of "racing vehicle" is broad and asks what it means to be suitable for the type of track.
	Rep. Kitts	References the aerial photo of the track asserting that it is very limited in what would be considered conducive. Gives examples.
157	Rep. Greenlick	Comments that it may be ambiguous in the statute. Asks why specific cars couldn't run on the track.
	Rep. Kitts	Responds that they are too big to run on the track.
	Egger	Adds that full size cars will not fit and gives dimensions of the tracks.
171	Rep. Greenlick	Begins to add that if they are suggesting that any type of vehicle that is conducive.
	Rep. Kitts	Interjects that is what they are suggesting.
	Rep. Nolan	Clarifies that the statute is silent on who determines what is compatible on the track.

	Rep. Kitts	Responds that the track decides that.
	Rep. Nolan	Adds that the statute is also silent on any improvements to the track which may change its compatibility.
	Egger	Discusses previous expansions.
	Rep. Kitts	Reiterates that the track is the determining factor.
204	Rep. Nolan	Asks who is the deciding party when there is disagreement between the operator and the county.
	Rep. Kitts	States that they are discussing the existing track. References a prior track.
	Egger	Adds that another limiting factor is the insurance company.
	Rep. Kitts	Elaborates in Section 1 on existing tracks and explains the intention of bill.
238	Rep. Nolan	Verifies that the term existing "motorsports race track" refers to the physical layout of the course, not the business operation.
	Rep. Kitts	Confirms this.
246	Rep. Ackerman	Asks if using the track until 10 pm subject to suitable lighting, provided for in the bill, is an expanded use.
	Rep. Kitts	Responds that there is currently lighting there and explains the county's response.
	Egger	Adds the county's explanation.
	Rep. Kitts	Explains existing rules.
	Rep. Ackerman	Asks if the track is currently operating with lumination.
	Rep. Kitts	Responds negatively.

	Rep. Ackerman	Asks if this would be an expanded use.
	Rep. Kitts	Responds affirmatively.
	Rep. Greenlick	Verifies it would expand the use for vehicles and for time.
	Rep. Kitts	Explains that they are asking to be allowed to use the lights which would allow them to be open to the currently allowed time.
278	Rep. Greenlick	Notes from a neighbors perspective, it would be an expansion of the type of vehicles used and the hours of operation.
	Rep. Kitts	Agrees but adds current possibility for expanded usage.
	Rep. Greenlick	Verifies their testimony that the track has been changed twice since 1969.
	Egger	Responds that it has been added to twice.
	Rep. Greenlick	Asserts they have a different physical track.
	Egger	Explains the original track is still there.
	Rep. Greenlick	Asks if they are not running on the original track.
	Egger	Responds that the original track is a portion of the existing track.
	Rep. Greenlick	Asks if more extensions would be covered under the bill.
	Rep. Kitts	Responds that any expansions must go through the appropriate process.
	Rep. Greenlick	Verifies Rep. Kitt's testimony.
	Rep. Kitts	Clarifies his testimony.
	Rep. Greenlick	Verifies Rep. Kitt's testimony of the existing track.

	Rep. Kitts	Clarifies that the existing track as is, is the track that was there in 1969.
	Chair Garrard	Closes the public hearing on HB 3463 and opens a work session on HB 3463.

HB 3463 – WORK SESSION

360	**Rep. Anderson**	**MOTION: Moves HB 3463 to the floor with a DO PASS recommendation.**
	Rep. Ackerman	Explains his vote in opposition discussing the expanded use of the facility and lack of thorough discussion from neighbors and the county.
	Rep. Greenlick	Explains his vote in opposition. Agrees with Rep. Ackerman and discusses preemption of the local decision.
	Rep. Anderson	Explains his vote in favor discussing the established business.
	Rep. Sumner	Explains his vote in favor discussing the property and merits of the facility.

TAPE 78, A

011		**VOTE: 5-2-0**
		AYE: 5 - Anderson, Nolan, Smith P., Sumner, Garrard
		NAY: 2 - Ackerman, Greenlick
	Chair Garrard	**The motion CARRIES.**
		REP. KITTS will lead discussion on the floor.
	Chair Garrard	Closes the work session on HB 3463 and opens a work session on HB 3286.

HB 3286 – WORK SESSION

025	Sam Litke	

		Committee Administrator. Reviews the background of HB 3463 and the Uniform Environmental Covenants Act. Introduces the -1 amendments **(EXHIBIT A).**
	Joe Willis	Uniform Law Commission. Discusses the Uniform Law Conference and actions after the public hearing on HB 3286. Urges the committee to pass HB 3286 with the -1 amendments.
128	Micheal Kerr	Deputy Executive Director, National Conference of Commissioners on Uniform Law. Discusses actions of other states on this legislation and compares Oregon's provisions. Gives hypothetical problems and explains that the reason that properties aren't being "cleaned up".
200	Kerr	Submits and references a packet of information **(EXHIBIT B)**. Lists groups and states supporting the Uniform Environmental Covenants Act. Reiterates benefits of the uniform language and urges passage of HB 3286.
260	Bob Danko	Department of Environmental Quality. Suggests time during the interim to review HB 3286 with stake holders and environmental attorneys. States it is not appropriate to pass out HB 3286 at this time.
278	Rep. Greenlick	Asks if they are voting on this today.
	Chair Garrard	Remarks they have just received the amendments.
	Danko	Reviews the effect of the amendments and does not believe there is the urgency to move the bill now.
293	Willis	Makes comments on uniformity.
	Chair Garrard	Remarks that they are not prepared to move the bill and need to look at the amendments.
	Chair Garrard	Closes the work session on HB 3286 and opens a work session on HB 3313.

HB 3313 – WORK SESSION

342	Dave Hunnicutt	

		Oregonians in Action. Speaks in support of HB 3313 with the -1 amendments **(EXHIBIT C)**. Discusses the history of the forest template test, gives the criteria and describes the case where this issue arose in Multnomah County.
425	Kathleen Worman	Multnomah County. Explains her situation.

TAPE 77, B

015	Rep. Greenlick	Asks what the consequence of the change is on Line 4 of Page 3 in -1 amendments.
	Hunnicutt	Responds that he does not know the origin of the change and explains that it is a distinction without a difference.
	Rep. Greenlick	Asks a question relating to DLCD.
	Hunnicutt	Responds no.
040	**Rep. P. Smith**	**MOTION: Moves to ADOPT HB 3313-1 amendments dated 4/25/05.**
		VOTE: 7-0-0
		AYE: In a roll call vote, all members present vote Aye.
	Chair Garrard	**The motion CARRIES.**
045	**Rep. P. Smith**	**MOTION: Moves HB 3313A to the floor with a DO PASS AS AMENDED recommendation.**
		VOTE: 7-0-0
		AYE: In a roll call vote, all members present vote Aye.
	Chair Garrard	**The motion CARRIES.**
		REP. SUMNER will lead discussion on the floor.
	Chair Garrard	Closes the work session on HB 3313 and opens a work session on HB 3135.

HB 3135 – WORK SESSION

062	Lisa Arkin	Explains the role of the Energy Facility Siting Council and explains the -4 **(EXHIBIT D)** and -5 amendments **(EXHIBIT E).** Explains Page 4, lines 9-16 and reviews the provisions of -4 amendments.
115	Arkin	Continues explanation of amendments and notes the distinction between the -4 and -5 amendments. Discusses Section 9 which creates a task force.
	Rep. Ackerman	Asks for the distinction between the -4 and -5 amendments.
	Arkin	Explains the difference is on Page 2, line 27-28 of either amendment. Recommends a do-pass for the -4 amendments.
	Chair Garrard	Verifies that the -4 amendments are her preference.
	Arkin	Prefers the -4 amendments.
160	**Rep. Nolan**	**MOTION: Moves to ADOPT HB 3135-4 amendments dated 4/27/05.**
		VOTE: 6-1-0
		AYE: 6 - Ackerman, Anderson, Greenlick, Smith P., Sumner, Garrard
		NAY: 1 - Nolan
	Chair Garrard	**The motion CARRIES.**
170	**Rep. Nolan**	**MOTION: Moves HB 3135A to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Environment by prior reference.**
		VOTE: 6-1-0
		AYE: 6 - Ackerman, Anderson, Greenlick, Nolan, Sumner, Garrard
		NAY: 1 - Smith P.

	Chair Garrard	**The motion CARRIES.**
		Closes the work session on HB 3135 and opens a work session on HB 2963.

HB 2963 – WORK SESSION

	Sam Litke	Committee Administrator. Explains the effect of the -2 amendments **(EXHIBIT G)** and reviews the public hearing and work group.
200	Tom Gallagher	Urban Developers Coalition. Submits -2 amendments **(EXHIBIT G).** Stresses the purpose of the -2 amendments and explains how they are achieved in sections 3 and 4.
250	Gallagher	Explains two new concepts from Page 1 (3) and notes the definition of industrial land found on Page 2, line 14.
268	Gallagher	Stresses the narrowing of the industrial land language. Explains Page 2, Section 4, line 23.
275	Gallagher	Continues explanation of -2 amendments, Page 3 (4).
314	Gallagher	Continues explanation on Page 4, line 10 and notes subsection 6 is an "opt out" provision. Discusses an ability to move urban growth boundary in page 4 (7).
369	Gallagher	References the fiscal impact statement **(EXHIBIT H)**. Explains Section 5 as the "bird in the hand" provision. Notes narrow criteria found in Page 5, Line 15.

TAPE 78, B

020	Chair Garrard	Asks who was involved in the work group.
	Gallagher	Lists members present as Land Conservation and Development Commission (LCDC), Oregon Economic and Community Development Department (OECDD), representatives of cities and counties and Metro.
	Rep. Greenlick	

		Asks about "traded sector" and asks if a previous example would qualify.
	Gallagher	Responds he is not qualified to answer. Makes comment on origin of the term "traded sector".
	Rep. Greenlick	Reads definition of "traded sector" and asks if it is intended to narrow the definition.
050	Gallagher	Responds that it is narrowed and explains its intention.
	Bob Rindy	LCDC. Supports the intention of the bill. Submits a letter from Lane Shetterly supporting efforts to provide industrial land but raising concerns about the -2 amendments **(EXHIBIT H)**.
100	Rindy	References the concerns of the department in letter. Announces support of HB 2963 as it stands today.
120	Kimberly Grygebski	OECDD. Reports interest in seeing the bill move forward and the department's interest in providing industrial trends. Raises concerns about the bill as drafted including the definition of industrial trends analysis. Outlines specific points in sections.
187	Linda Ludwig	League Of Oregon Cities. Notes her view of the language in HB 2956 as a work in progress. Discusses lack of infrastructure funding. Believes the bill should move forward.
215	Art Schlack	Association of Oregon Counties. Discusses the potentially significant fiscal impact. Suggests moving the bill to Ways and Means to address the funding as well as final details. States they will not support the bill without a source of new funds. Discusses the special section dealing with the "bird in the hand" concept.
	Chair Garrard	Asks Gallagher about fiscal impact, as the fiscal statement issued is for the original bill.
	Gallagher	Recommends sending it to Ways and Means.
300	Rep. Jerry Krummel	HD 26. Discusses ambiguity in definition of "serviceable", assuming it means infrastructure, and comments on who might provide the infrastructure. References Section 4, lines 23-30 and raises concerns.

368	Rep. Krummel	Points out concern on Page 3, (4) (A), lines 22 -27. Question what incentive there is for cities and counties in provision on Page 4, lines 4-9. Suggests that HB 2963-2 is not yet ready.

TAPE 79, A

005	Charlotte Lehan	Mayor, Wilsonville. Submits collage of pictures showing evidence of distribution centers in Wilsonville as a response to previous testimony **(EXHIBIT I)**. Discusses problems with the amendments to HB 2963 and outlines barriers to development including the lack of infrastructure. Notes amount of land Wilsonville currently has within the urban growth boundary (UGB). Submits written testimony outlining criticism of HB 2963 **(EXHIBIT L).**
082	Lehan	References Section 5 and addresses the criteria specified for the number and type of jobs.
115	CK Patterson	Discusses his previous testimony on HB 2963 as written and his current disagreement that the bill is ready to go to Ways and Means. Gives reasons why the bill is not ready to move.
146	Alex McPhail	Coalition to Save the Valley. Submits written testimony raising concerns about HB 2963 **(EXHIBIT J)**
165	Tony Holt	Charbonneau. Submits and summarizes written testimony raising concerns about HB 2963 **(EXHIBIT K)**.
210	Debbie Smith	Wilsonville, Coalition to Save the Valley. Asserts that HB 2963-2 will hurt farmland in the Willamette Valley by extending industry south of the Willamette Valley and elaborates. Urges no vote on HB 2963. Submits copy of her statement **(EXHIBIT M)**.
	Danielle Cowan	Public Affairs Director, City of Wilsonville. Submits and summarizes written testimony in opposition to HB 2963 **(EXHIBIT N)** and an article from the Oregonian **(EXHIBIT O)**.
319	Rep. Anderson	Asks if land currently in Wilsonville's UGB was not farm land at one point.
	Cowan	Responds that some was and some was not and discusses the quality of the farm land.

	Rep. Nolan	Asks Smith if her family still farms.
	Smith	Responds negatively and discusses their prior farming.
	Rep. Nolan	Asks what kind of job her children are likely to have.
	Smith	Discusses the viability of farming.
365	Rep. Nolan	Asks for clarification from Gallagher on Section 5, specifically about his intention on the 250 high wage jobs per 100 acre minimum.
	Gallagher	Defers to Bob Rindy and explains about developable acreage.

TAPE 80, A

018	Rindy	Explains their intention with the number and notes difficulty in predicting future jobs rather than investment.
	Rep. Nolan	Notes the emphasis on the value of facility and asks if there is anything that requires that investment be on property tax rolls.
046	Gallagher	Stresses the focus of section 5.
065	**Rep. Anderson**	**MOTION: Moves to ADOPT HB 2963-2 amendments dated 4/29/05.**
	Rep. P. Smith	Notes intention to vote no and explains.
		VOTE: 2-4-1
		AYE: 2 - Ackerman, Garrard
		NAY: 4 - Anderson, Nolan, Smith P., Sumner
		EXCUSED: 1 - Greenlick
	Chair Garrard	**The motion FAILS.**
085	**Rep. Anderson**	

		MOTION: Moves HB 2963 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Ways and Means by prior reference.
		VOTE: 3-3-1
		AYE: 3 - Ackerman, Anderson, Garrard
		NAY: 3 - Nolan, Smith P., Sumner
		EXCUSED: 1 - Greenlick
	Chair Garrard	**The motion FAILS.**
090	Chair Garrard	Closes the work session on HB 2963 and adjourns the meeting at 4:03 p.m.

EXHIBIT SUMMARY

A. **HB 3286, -1 amendments, Joe Willis, 4 pp**
B. **HB 3286, informational packet, Micheal Kerr, 70 pp**
C. **HB 3313, -1 amendments, Dave Hunnicutt, 4 pp**
D. **HB 3135, -4 amendments, Lisa Arkin, 8 pp**
E. **HB 3135, -5 amendments, Lisa Arkin, 8 pp**
F. **HB 2963, -2 amendments, Tom Gallagher, 6 pp**
G. **HB 2963, fiscal statement, staff, 1 p**
H. **HB 2963, written testimony of Lane Shetterly, Bob Rindy, 2 pp**
I. **HB 2963, picture collage, Charlotte Leman, 1 p**
J. **HB 2963, written testimony, Alex McPhail, 1 p**
K. **HB 2963, written testimony, Tony Holt, 1 p**
L. **HB 2963, written testimony, Charlotte Lehan, 2 pp**
M. **HB 2963, prepared statement, Debbie Smith, 1 p**
N. **HB 2963, written testimony, Danielle Cowan, 2 pp**
O. **HB 2963, newspaper article, Danielle Cowan, 1 p**