

## **HOUSE COMMITTEE ON LAND USE**

**May 04, 2005 Hearing Room 50**

**1:30 P.M. Tapes 81 - 84**

**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 3243 - Public Hearing**

**HB 3244 - Public Hearing**

**HB 2652 - Public Hearing**

**HB 3312 – Work Session**

**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
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**TAPE 81, A**

	Chair Garrard	Calls the meeting to order at 1:40 p.m. and opens public hearings on HB 3243 and HB 3244.
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**HB 3243, HB 3244 – PUBLIC HEARINGS**

015	Rep. Bob Ackerman	HD 13, sponsor of HB 3243 and HB 3244. Describes the effect of HB 3243 and explains its intent. Notes their connection to Ballot Measure 37 (2004).
046	Rep. Ackerman	Explains his concern which led to HB 3244 and explains its provisions.
	Chair Garrard	Notes that the compensation issue will be discussed in future weeks.
087	Dave Hunnicutt	Oregonians in Action. Relays opposition to HB 3243 and neutrality on HB 3244. Agrees with Rep. Ackerman that there can be excessive appeals but asserts that HB 3243 is not the answer. Elaborates on reasoning and gives a hypothetical example.
129	Hunnicutt	Begins discussion of HB 3244. Relays his support of HB 3244 (3) but is opposed to the overall concept of HB 3244 which he asserts will force people to develop their claim immediately.
163	Chair Garrard	Comments on unlikely agreement on HB 3243.
170	Elon Hasson	1000 Friends of Oregon. Relays opposition to HB 3243 citing two reasons.
180	Hasson	Speaks in support of HB 3244 and explains his reasoning.
190	Glen Stonebrink	Oregon Cattlemen's Association. Remarks he will only testify on HB 3244 and reiterates the earlier testimony of Hunnicutt and discusses other possible application of Ballot Measure 37 beyond land use.

Makes suggestions for trading high value farmland for secondary farmland..

Chair Garrard

Closes public hearings on HB 3243 and HB 3244 and opens a public hearing on HB 2652.

### **HB 2652 – PUBLIC HEARING**

245 Sam Litke Committee Administrator. Introduces HB 2652 and -1 amendments **(EXHIBIT A)**.

310 Glen Stonebrink Oregon Cattlemen’s Association. Submits and summarizes written testimony in support of HB 2652 **(EXHIBIT B)**.

375 Stonebrink References Page 2 of his testimony and reads his 27 word legislative concept which resulted in 317 pages of an amendment. Continues summary of his testimony.

### **TAPE 82, A**

002 Rep. Greenlick Asks if Stonebrink would be interested in a constitutional amendment that would abolish special interest groups ability to ask the state legislature to overturn unpopular county decisions.

010 Stonebrink Responds that would not solve the problem and discusses the political process.

017 Rep. Greenlick Remarks on special purpose legislation and asks how one mitigates the problem of conflicting state and local government decisions.

Stonebrink Responds that it depends on the individual doing it. Discusses regionalization of land use by county.

050 Lane Shetterly Director, Department of Land Conservation and Development (DLCD). Discusses the state interest in land use planning. Recommends SB 82 as a more thoughtful review of the land use system.

088 Peggy Lynch League of Women Voters of Oregon (LWVOR). Submits and summarizes written testimony in opposition to HB 2652 and reviews

LWVOR principles regarding Measure 37 legislative proposals.  
**(EXHIBIT C).** Supports a broader discussion of land use in SB 82.

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| 170 | Rep. Anderson | Asks if Lynch's statements about public engagement in land use speaking would support the intent of HB 2652.      |
| 175 | Lynch         | Discusses the importance of the statewide land use process and notes the current local involvement.               |
| 187 | Rep. Sumner   | Asks if the LWVOR took a position on Ballot Measure 37 (2004).  |
|     | Lynch         | Responds that they were opposed to Measure 37.  |
|     | Chair Garrard | Notes the future discussion of Measure 37 and asks for suggestions for approaches on compensation from the LWVOR. |
| 195 | Elon Hasson   | 1000 Friends of Oregon. Speaks in opposition to HB 2652.  |
| 265 | Jim Welsh     | Oregon State Grange. Submits testimony in support of HB 2652 <b>(EXHIBIT D).</b>                                  |

**The following was submitted to the record without public testimony:**

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| Don Schellenberg | Oregon Farm Bureau. Submits written testimony suggesting an alternative to HB 2652 <b>(EXHIBIT K).</b> |
| Chair Garrard    | Closes the public hearing on HB 2652 and opens a public hearing on HB 3312.                            |

**HB 3312 – WORK SESSION**

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| 290 | Chair Garrard      | Asks for testimony from 3 representatives of each side of the issue.   |
| 321 | Sam Litke          | Committee Administrator. Explains the provisions of HB 3312 and discusses the effect of the -2 amendments <b>(EXHIBIT E).</b>  |
|     | Rep. Phil Barnhart | HD 11. Submits a cultural resource survey from the city of Eugene and explains his concern with the plan <b>(EXHIBIT F).</b> Relays support of HB 3312 with the -2 amendments for this reason. |

## **TAPE 81, B**

003	Chair Garrard	Invites three speakers in favor of HB 3312 as Al Johnson, Carol Lee Burger and Jenerva Ralph.
009	Jenerva Ralph	Eugene. Represents 315 property owners who have filed notarized letters of objections to the proposed South University Historic District. Explains the process of historic district registry and outlines her objections.
036	Ralph	Speaks in support of the -2 amendments.
050	Carol Lee Burger	Springfield, Property owner and preservationist. Speaks in favor of HB 3312. Discusses her property, increases in regulations from the time of purchase, and problems experienced due to them.
090	Al Johnson	Discusses the distinctions between types of historical district registers.
130	Johnson	Describes the effect of HB 3312 and the -2 amendments. Submits chart explaining HB 3312-2 and two letters of support ( <b>EXHIBIT G</b> ).
212	Rep. Ackerman	Asks the panel what the status of the Eugene South University neighborhood is.
215	Johnson	Explains what has proceeded.
	Rep. Ackerman	Asks if property owners have had a legal option to opt out.
270	Johnson	Responds negatively. Elaborates on the process of opting out.
	Rep. Ackerman	Asks what the consequences are to the remaining district or the people that opt out.
	Johnson	Explains the distinctions between those in and outside of a historic district.
	Rep. Ackerman	Asks what happens to the district if HB 3312-2 passes and more than 51% opt out.

	Johnson	Responds that would be a rejection rather than an opt out and the district would not be formed.
	Rep. Ackerman	Asks if that can happen without adoption of the -2 amendments.
	Johnson	Responds that it could if 51% of the district agreed.
	Rep. Ackerman	Asks if there are still tax benefits associated with historic districts and if so, if those opting out of historic districts can retain the benefit.
	Johnson	Responds negatively and defers to Ralph.
315	Ralph	Outlines two types of tax incentives and criteria for application.
	Rep. Ackerman	Asks if it is possible to own property within the district, opt out and receive no tax benefit and still be subject to historic regulations.
	Ralph	Responds that they are under locally imposed regulations.
	Rep. Ackerman	Verifies that it possible not to have the tax benefit but still be subject to the regulations.
	Ralph	Responds affirmatively and explains that most properties will not receive tax benefits.
	Rep. Ackerman	Verifies that even if the owners do not qualify for tax benefits they will still be subject to the historic district regulations.
	Ralph	Confirms this and elaborates on further regulations.
344	Rep. Nolan	Asks the panel if they intend for the -2 amendment to make a retroactive change for districts that have already gone through the process for formation of a historic district.
	Ralph	Responds that it is not retroactive.
	Burger	Adds criteria.
	Rep. Nolan	

Verifies that if one objects during the formation of a historic district but a majority forms the district, that owner can withdraw from the district.

375	Ralph	Responds that one cannot withdraw from a district rather they can opt out. Explains further designations within the historic district and details of opting out.
	Rep. Nolan	Comments on the process of historic designation.
	Johnson	Makes criticisms of the process.

**TAPE 82, B**

005	Rep. Nolan	Disagrees with the criticisms of the process and clarifies the question before the committee.
015	Johnson	Explains that the process was designed by congress, not local government and elaborates on the original intent and asserts it is not legitimate process
025	Ralph	Adds comment on the inequity of requirements between the proponents and objectors of a proposed historic district.
060	Rep. Nolan	Relays hesitation in passing statewide legislation on this issue.
095	Karen Bean	Government Relations, City of Portland. Submits written testimony and speaks in opposition to HB 3312-2 ( <b>EXHIBIT H</b> ). Adds that the League of Oregon City also opposes this measure. Responds to earlier testimony.
148	Bean	Continues reading testimony from Page 2 of ( <b>EXHIBIT H</b> ).
170	Marilyn Milne	Eugene. Submits and summarizes written testimony in opposition to HB 3312-2 ( <b>EXHIBIT I</b> ). Responds to earlier testimony.
241	Bob Peters	Chair, South University Neighborhood Association, Eugene. Submits and summarizes written testimony in opposition to HB 3312 ( <b>EXHIBIT J</b> ). Discusses history of the proposed South University districts. Responds to earlier testimony.

346	Rep. Ackerman	Asks how long the process has been going on.
	Peters	Responds over 7 years.
	Rep. Ackerman	Verifies that those opting out would not receive tax benefits but would still be subject to some architectural control consistent with the historic district.
	Peters	Disagrees, and explains why.
	Rep. Ackerman	Verifies this clarification.
	Peters	Confirms this. Adds that the regulations would not apply.
	Rep. Ackerman	Notes his assumption that there would be no change in law when one opts out.
	Peters	Responds that if there is no change in the law, a person does not have the right to opt out of a historic designation on the federal register.
	Rep. Ackerman	Verifies this person would still be subject to the architectural controls of the historic district.
	Milne	Comments on usage of the term “architectural controls” and describes them as guidelines.
400	Rep. Ackerman	Explains his wording.
	Rep. Nolan	Asks Bean about different interpretations of tax assessment. Verifies that properties within historic districts can have a beneficial tax assessment even if they are not qualified properties or if they opt out.
	Bean	Responds that the response she was given to the same question was that if people were to opt out they would still be able to access the special tax assessment program.

**TAPE 83, A**

014	Rep. Anderson	Verifies that one could go the process on a single owner basis, not as a district basis.
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	Bean	Responds that with the district, if you are contributing property, you can obtain special tax assessment.
	Rep. Anderson	Asks if this on contribution only.
	Bean	Answers on contributing properties. Gives an example of an effected property.
028	Rep. Anderson	Asks a hypothetical question.
	Bean	Responds affirmatively if the property is contributing.
	Rep. Anderson	Gives further criteria.
	Bean	Clarifies that the property is contributing to the district.
	Peters	Adds that there is no incentive for the program they are talking about.
045	Chair Garrard	Asks for the difference between individual preservation versus district preservation.
	Bean	Responds that districts are recognized as a whole.
	Rep. Sumner	Refers to and reads from HB 3312 (1)(2), asking what the cited 120 days refers to.
	Peters	Responds that that language is part of existing bill, not the -2 amendments being considered today.
	Rep. Sumner	Makes a comment on the amount of time provided and asks about the intention of this provision.
	Peters	Responds on the intention.

**The following has been submitted for the record without public testimony:**

Carl S. Bjerre	Eugene. Submits written testimony in opposition to HB 3312-2 amendments ( <b>EXHIBIT L</b> ).
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Alice I. Duff Portland. Submits written testimony in opposition to HB 3312  
**(EXHIBIT M).**

Al Couper Eugene. Submits written testimony in opposition to HB 3312-2  
**(EXHIBIT N).**

Janet Heinonen Eugene. Submits written testimony in opposition to HB 3312  
**(EXHIBIT O).**

Gene Humphreys Eugene. Submits written testimony regarding HB 3312-2, asking for  
maintenance of the existing language in state law **(EXHIBIT P).**

John Czarnecki Chair, Portland Historic Landmarks Commission. Submits written  
testimony raising concerns about HB 3312-2 **(EXHIBIT Q).**

Hank McDonald Building Official, City of Portland's Bureau of Development  
Services. Submits written testimony in opposition to HB 3312-2  
**(EXHIBIT R).**

Kitti M. Gale Historic Coordinator, City of Springfield. Submits a packet of  
information including a cover letter and the Springfield Historic  
Design Guidelines **(EXHIBIT S).**

**075 Rep. Anderson MOTION: Moves to ADOPT HB 3312-2 amendments dated  
4/22/05.**

078 Rep. Ackerman Gives explanation for his no vote on both the -2 amendments and HB  
3312.

092 Rep. Anderson Gives explanation for his yes vote on HB 3312.

**110 VOTE: 4-2-1**

**AYE: 4 - Anderson, Smith P., Sumner, Garrard**

**NAY: 2 - Ackerman, Nolan**

**EXCUSED: 1 - Greenlick**

**Chair Garrard The motion CARRIES.**

**120            Rep. Anderson            MOTION: Moves HB 3312A to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 4-2-1**

**AYE:            4 - Anderson, Smith P., Sumner, Garrard**

**NAY:            2 - Ackerman, Nolan**

**EXCUSED:    1 - Greenlick**

**Chair Garrard            The motion CARRIES.**

**REP. ANDERSON will lead discussion on the floor.**

**Chair Garrard            Makes announcements and closes the work session on HB 3312.  
Adjourns the meeting at 3:40 p.m.**

### **EXHIBIT SUMMARY**

- A. HB 2652, -1 amendment, Glen Stonebrink, 317 pp
- B. HB 2652, written testimony, Glen Stonebrink, 2 pp
- C. HB 2652, written testimony, Peggy Lynch, 2 pp
- D. HB 2652, written testimony, Jim Welsh, 1 p
- E. HB 3312, -2 amendments, Staff, 2 pp
- F. HB 3312, Cultural resource surveys, Rep. Phil Barnhart, 6 pp
- G. HB 3312, packet of info, Al Johnson, 4 pp
- H. HB 3312, written testimony, Karen Bean, 2 pp
  - I. HB 3312, written testimony, Marilyn Milne, 1 p
  - J. HB 3312, written testimony, Bob Peters, 1 p
- K. HB 2652, written testimony, Don Schellenberg, 1 p
- L. HB 3312, written testimony, Carl S. Bjerre, 2 pp
- M. HB 3312, written testimony, Alice I. Duff, 1p
- N. HB 3312, written testimony, Al Couper, 3 pp
- O. HB 3312, written testimony, Janet Heinonen, 1 p
- P. HB 3312, written testimony, Gene Humphreys, 1 p
- Q. HB 3312, written testimony, John Czarnecki, 2 pp
- R. HB 3312, written testimony, Hank McDonald, 2 pp
- S. HB 3312, informational packet, Kitty M. Gale, 67 pp