

**HOUSE COMMITTEE ON LAND USE**

**June 06, 2005 Hearing Room 50**

**1:30 P.M. Tapes 117 - 118**

**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 3120 – 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.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
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<b>TAPE 117, A</b>		
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002 Chair Garrard Calls the meeting to order at 1:34 p.m. and opens a work session on HB 3120 and announces that today and tomorrow will be the only time to submit amendments.

**HB 3120 – WORK SESSION**

011 Rep. Ackerman Comments that there should be more time to submit amendments.

020 Chair Garrard Makes comments and explains reasoning.

Rep. Ackerman Responds with possible amendments.

Chair Garrard Comments they will allow amendments for as long as they can. Announces -2 amendments (**EXHIBIT A**), -3 amendments (**EXHIBIT C**) and preliminary -4 amendments (**EXHIBIT E**).

052 Bill Cross Oregon Landscaper Contractors Association. Explains the content of the -2 amendments (**EXHIBIT A**) is language from HB 2582 and explains reasoning for its inclusion in HB 3120.

070 Rep. Greenlick Sympathizes with the amendment but is cautious about adding this provision to an already complicated bill.

Chair Garrard Comments there may be other similar amendments.

090 Don Schellenberg Oregon Farm Bureau. Submits proposed concept amendments for HB 3120 (**EXHIBIT B**). Discusses the tract of record provision, authority of state agencies to waive state statutes and compensation, all outlined in submitted testimony.

Chair Garrard Asks if he would consider a limitation on how many years a waiver would be transferable.

Schellenberg Responds that they did not put a limit on it.

200 Rep. Anderson Asks if there was any consideration of parcels that might have pasture land and woodlot, where homes could be placed outside the farmable area and therefore allow more than one home per tract.

Schellenberg

		Reports that their amendments would include tract of record rather than a lot of record and explains the difference.
	Rep. Anderson	Asks if they discussed the placement of homes on a lot.
	Schellenberg	Responds negatively and adds it would be up to the homeowner where they wanted to place the dwelling.
216	Rep. Anderson	Makes suggestions for placement of lots.
	Schellenberg	Discusses placement of lots on farmland.
	Rep. Sumner	Verifies that if one accepts the right to build on a tract of record he then relinquishes the right to build on a lot of record.
	Schellenberg	Responds it would be true on high value farmland and elaborates.
	Chair Garrard	Asks Lane Shetterly for his recommendation on which areas of M37 to address and which to avoid.
236	Lane Shetterly	Director, Department of Land Conservation and Development (DLCD). Reports the issues of claims administration and judicial review are their highest priority. Acknowledges the policy decision made by the voters. Expresses support in revisiting issues of open spaces, farm and forest land protection. Notes the proponents of M37 have raised transferability as a key component and the department's view that it is a practical matter that should be addressed.
	Chair Garrard	Asks Shetterly for his opinion on the claims process as laid out in SB 1037.
325	Shetterly	Responds it was pretty good and mentions technical, non-controversial issues to be addressed.
	Rep. Greenlick	Recaps three concepts Shetterly spoke about and expresses concern for having balance when interpreting M37.
	Shetterly	Comments on recognition of the balance and discusses issues of transferability and farmland protection.

386 Rep. Greenlick Outlines balancing past and future injustices. Suggests a more generous interpretation for past injustices and a more narrow interpretation for the future and asks for Shetterly's opinion.

Shetterly Responds it is a fair question of balance.

**TAPE 118, A**

002 Shetterly Discusses addressing the impact of M37 in and around urban growth boundaries (UGB).

Chair Garrard Asks Shetterly if the department has any direction on the compensation issue.

010 Shetterly Discusses difficulty in appropriating a revenue source but would support the establishment of a compensation fund. Comments on the magnitude of funds needed for claims.

Chair Garrard Commends Director Shetterly.

Shetterly States he will be a resource for the committee.

Chair Garrard Announces there are -3 amendments (**EXHIBIT C**) and -4 amendments which have not yet been received by the committee.

048 Jon Chandler Oregon Homebuilders Association. Submits -3 amendments (**EXHIBIT C**) and a preliminary -3 amendment document (**EXHIBIT D**). Suggests waiting before discussing the amendments.

066 Chandler Notes some changes in approach to M37 from the HB 3120 -1 amendments including provisions for lands inside the UGB and for lands on the UGB fringe area. Elaborates on concerns surrounding these issues.

096 Chandler Describes a provision that would allow for interim discussion of these issues. Notes the absence of a compensation piece and gives reasons for the omission.

124 Elon Hasson 1000 Friends of Oregon. Reports that the -4 amendments are not ready yet. Introduces Micheal Collmeyer who will discuss their preliminary outline (**EXHIBIT E**).

133	Mike Collmeyer	1000 Friends of Oregon. Begins discussion of their principles towards M37 with the first principle of fairness. Asserts there should be a threshold established for the diminution of value before a M37 claim is triggered to allow for future planning.
	Chair Garrard	Asks for clarification of the document they are reviewing.
	Collmeyer	Reports it is what was turned into Legislative Counsel (LC).
	Hasson	Clarifies they are reviewing the correct document.
198	Collmeyer	Continues discussing the concept of establishing a threshold. Identifies compensation as a fair way to provide a remedy to restricted property owners.
	Chair Garrard	Asks if Collmeyer has a recommendation for a funding source for the compensation piece.
	Collmeyer	Responds that they are proposing making LC 3535 a part of HB 3120 which has a funding mechanism based on development rights assessment. Discusses proportionality of compensation to harm inflicted.
226	Chair Garrard	Requests Collmeyer wait until the -4 amendments are prepared and to give a more general summary.
	Collmeyer	Recaps provisions discussed and adds they will incorporate deed restriction provisions, and provisions which would identify a basis for protecting valuable resource land. Recommends waiver limitations on high value farmland and encourages a tract of record provision.
265	Chair Garrard	Comments on legislation acceptable to both sides.
285	Collmeyer	Continues discussion of a compensation source and Department of Administrative Services (DAS) rules for appraisals.
	Hasson	Adds that waivers would be transferable.
	Chair Garrard	Submits request to review poll done by the Oregon Business Alliance.

Lynn Lundquist Oregon Business Association. Reports that he will get the document to the committee members.

Ross Day Director of Legal Affairs, Oregonians in Actions.

Rep. Greenlick Asks Day about a compromise bill and his feelings about leaving M37 as written.

365 Day Reports on his participation in court cases on this issue. Asserts his confidence in clarifying the issue of transferability in the courts. Comments on his interpretation of the voters' intent. Recognizes the value of having a definitive answer on transferability.

### **TAPE 117, B**

005 Day Comments on the attorney general's opinion and would support legislation to clarify the voters' intent.

014 Rep. Greenlick Notes that difference in opinion from claimants in M37 and the general voting public.

Day Reviews actions during the campaign and comments on voters' intent.

037 Rep. Nolan Asks for elaboration on his interpretation of the voters' intent if it is not included in the written record.

Day Responds that it will depend on how the evidence in the record is weighed. Notes objection to the ballot title and campaign literature from the opposition.

Rep. Nolan Asks if there was anything in the record that suggests that in addition to the words of M37, other language would be needed to implement the measure and cites the claims process as an example of something to be clarified.

070 Day Responds that they recognized that the legislature would probably adopt procedures but not a wholesale revision.

091 Rep. Nolan Asks if he considers SB 1037 or other amendments to HB 3120 to be wholesale revisions of M37.

Day	Makes comments on previous testimony and suggests addressing compensation with voluntary contributions.
Chair Garrard	Closes the work session on HB 3120 and adjourns the meeting at 2:38 p.m.

### **EXHIBIT SUMMARY**

- A. HB 3120, -2 amendments, Bill Cross, 35 pp**
- B. HB 3120, proposed concept amendments, Don Schellenberg, 1 p**
- C. HB 3120, -3 amendments, Jon Chandler, 32**
- D. HB 3120, preliminary -3 amendments, Jon Chandler, 13 pp**
- E. HB 3120, preliminary -4 amendments, Elon Hasson, 5 pp**