

SENATE COMMITTEE ON WATER AND LAND USE

February 23, 1999 Hearing Room B

1:00 p.m. Tapes 25 - 26

MEMBERS PRESENT: Sen. Veral Tarno, Chair

Sen. Tony Corcoran, Vice-Chair

Sen. Gary George

Sen. Thomas Wilde

MEMBER EXCUSED: Sen. Marylin Shannon

STAFF PRESENT: Raymond J. Kelly, Administrator

Diana Bronson, Administrative Support

MEASURES/ISSUES HEARD: SB 94 Work Session

SB 511 Public Hearing

SB 524 Public Hearing and Work Session

SB 96 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.

TAPE/#	Speaker	Comments
TAPE 25, A		
005	Chair Tarno	Opens meeting at 1:12 p.m.
<u>SB 94 WORK SESSION</u>		

006	Sen. Wilde	Describes issues raised in SB 94 and presents the ñ1 amendments. Presents (EXHIBIT A).
026	Sen. Wilde	MOTION: Moves to ADOPT SB 94-1 amendments dated 2/23/99.
		VOTE: 3-1 AYE: 3 ñ George, Wilde, Tarno NAY: 1 ñ Corcoran EXCUSED: 1 ñ Shannon
	Chair Tarno	The motion CARRIES.
037	Sen. Wilde	MOTION: Moves SB 94 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 3-1 AYE: 3 - Sen. George, Sen. Wilde, Sen. Tarno NAY: 1 - Sen. Corcoran EXCUSED: 1 - Sen. Shannon
	Chair Tarno	The motion Carries. SEN. GEORGE will lead discussion on the floor.
<u>SB 511 PUBLIC HEARING</u>		
045	Ray Kelly	Committee Administrator. Summarizes SB 511.
059	Sen. Beyer	States that many of the local governments have tried to address the issue of the 120 day rule. States that problems have been brought to his attention regarding some of the wording in SB 511 and that after hearing testimony, a work group could be formed to correct the wording.
084	Chair Tarno	Asks Sen. Beyer who he would like in a work group to discuss this issue.
087	Sen. Beyer	States the City of Portland has recommendations based on advice from their legal counsel,

		the League of Oregon Cities, the building association and, possibly, Oregonians In Action (OIC).
107	Jon Chandler	Director Governmental Affairs, Oregon Building Industry Association. States there was an interim working group on SB 511, but there is a need for further work.
129	Art Schlack	Association of Oregon Counties (AOC). States there are concerns with SB 511. States willingness to work on the issues.
153	Dave Hunnicutt	Oregonians In Action. States willingness to work on the issues of SB 511.
159	Sen. Corcoran	Asks for explanation of how SB 511 lands on SB 440. Asks what it does in addition to SB 440.
164	Hunnicutt	States that SB 440 mainly deals with jurisdictional issues making sure that, once someone is in circuit court under the 120 day rule, that they stay there. SB 511 has more to do with what is needed when an applicant files, in order to have a completed application to start the clock running.
178	Phillip Fell	League of Oregon Cities (LOC). States the LOC would appreciate a chance to work on this bill.
<u>SB 524 PUBLIC HEARING</u>		
234	Kelly	Summarizes SB 524.
250	Sen. George	Describes the turmoil over vacated property in Yachats.
264	Rob Bovett	Assistant County Counsel, Lincoln County. Presents (EXHIBIT B) and (EXHIBIT C). Testifies in support of SB 524. States that SB 524 will specifically remove road vacation decisions from the definition of "land use decision" and leave the procedures provided by the vacation statutes intact.
349	Arthur Roberts	Mayor, City of Yachats. Presents (EXHIBIT D).
366	Chair Tarno	Asks for an explanation of what happened in Yachats.
369	Roberts	Describes the old 804 survey route.
433	Chair Tarno	Asks if the people who built on the Route 804 strip own their property.

437	Roberts	Replies they do own the property.
438	Chair Tarno	Asks what triggered this issue with the city.
445	Roberts	States there was a proposal to build a house on a vacant lot and the Oregon Shores Coalition people found out about it. States an objective was that everything to the west of Highway 101 should be public and there was an effort to utilize Goal 17 language to increase beach access.
476	Chair Tarno	Asks if there is ample beach access.
478	Roberts	States 60 percent of Yachats is public beach front. States there are 13 access points to the beach, within a one mile distance.
TAPE 26, A		
030	Chair Tarno	Asks about the makeup of the folks that live along Route 804.
032	Roberts	States the homes vary from modest to very simple vacation houses. States that 12 percent of Yachats would be impacted by this change.
050	Chair Tarno	Asks Bovett the current status on Route 804.
051	Bovett	Explains the appeal pending in LUBA.
082	Phillip Fell	LOC. Testifies in support of SB 524. States local governments can work around the issues presented in SB 524.
095	Sen. George	States he has a bill that is an aggressive effort to secure right-of-ways to improve access.
103	Fell	Says he cannot imagine any city working to limit beach access.
111	Bob Rindy	Department of Land Conservation and Development (DLCD). Presents (EXHIBIT E). Testifies in opposition of SB 524. States SB 524 may have detrimental aspects both on local transportation planning and on access planning for the beaches in the State of Oregon. States once public access is lost to public beaches it is virtually impossible to get it back.
156	Chair Tarno	States that the Land Conservation and Development Commission (LCDC) was aware of this issue from the outset. Asks what kind of cooperation there is within the City of Yachats.
177	Rindy	States they heard about this, due to a grant given to the city and a violation of the statewide planning program. States DLCD is not siding with Coastal Conservation Coalition. States the

		DLCD offered the city the state's dispute resolution program and urged that this situation be resolved through mediation. States he does not know why it did not happen and, unfortunately, now it is in litigation.
198	Chair Tarno	Asks Bovett to approach, as there are questions.
200	Sen. Corcoran	States he sees this as a problem solving issue. Asks if Bovett knows the particulars in this issue.
208	Bovett	Speaks of alternatives given to residents in Yachats. States that SB 524 is not about voiding public process, hearings, or notice.
226	Sen. Corcoran	Asks what the response was when the homeowners were offered a life estate in their home. Asks what the objections were.
239	Bovett	States he recalls the objection was it is their home and they wanted the choice to sell it or pass it on to their children.
251	Sen. Corcoran	Asks if they were given the opportunity to get fair market value through the process of takings.
257	Bovett	Replies no, it did not become issue because there was not any action by the government. States there was nothing the government did to cause a taking.
268	Sen. Corcoran	Asks why DLCD has not written legislation that speaks specifically to the Route 804 issue.
278	Rindy	States they did not have a chance and that no one approached them before this was written.
282	Sen. Wilde	Questions Rindy's statement.
286	Rindy	States his department was not approached on this bill to his knowledge and if there is other information, he will defer. States he is more than willing to sit down with the parties and find another way to resolve the issues that would not create a statewide problem for land use planning.
308	Mike Collmeyer	1000 Friends of Oregon. Presents (EXHIBIT F). Testifies in opposition to SB 524. Reads testimony.
362	Chair Tarno	Asks if 1000 Friends participated with the Coastal Coalition.
366	Collmeyer	States 1000 Friends intervened for the purpose of arguing that Goal 17 should apply to such decisions.

371	Chair Tarno	States that SB 524 is ready to be passed out to the House. Suggests if there is opposition to draft amendments for the House to review.
401	Glen Stonebrink	Oregon Cattlemen's Association. States he is willing to work with House and feels it is a good bill with the proper amendments.
410	Chair Tarno	States that the intent is not to apply SB 524 to any federal lands, this is a state lands issue only.
436	Stonebrink	States that we have federal monuments on federal lands and the only weapon left is land use planning.
443	Sen. Corcoran	States that without getting into comments regarding public land, there is another issue of unintended consequences. States he does not like the process of sending bills over to the House to be fixed. States that if the appropriate changes to SB 524 cannot be finalized, he will support the bill as is, but would like to give Yachats an opportunity to make the necessary changes before facing a potential veto.
TAPE 25, B		
031	Jon Chandler	States that as a private citizen, he thinks the bill, as written, accomplishes the purpose it intended. States support of SB 524.
045	Chair Tarno	Closes public hearing SB 524 and opens work session on SB 524.
<u>SB 524 WORK SESSION</u>		
047	Sen. George	Refers to (EXHIBIT B) and points out that several areas of the beach fall off into the ocean and states it is an important point when you consider the conversations held with Oregon State Parks. States that any person would say this needs to be moved.
076	Sen. Corcoran	Agrees with Sen. George, and asks that the League of Oregon Cities, Yachats, and DLCD have a couple of days to discuss and present something satisfactory to the Route 804 problem. This legislature must look at problem solving and not conflicts. States he knows that DLCD was not involved in the interim meetings. Asks to give Yachats two more days to figure this bill out and then make a decision.
104	Sen. Wilde	MOTION: Moves SB 524 to the floor with a DO PASS recommendation.
		VOTE: 3-1 AYE: 3 - George, Wilde, Tarno

		<p>NAY: 1 - Corcoran</p> <p>EXCUSED: 1 - Shannon</p>
	<p>Chair Tarno</p>	<p>The motion CARRIES.</p> <p>SEN. GEORGE will lead discussion on the floor.</p>
<u>SB 96 PUBLIC HEARING</u>		
114	Kelly	Summarizes SB 96.
130	Craig Greenleaf	Director, Transportation Development, Oregon Department of Transportation (ODOT). Presents (EXHIBIT G). Testifies in opposition to SB 96. States this limits their ability to intervene in an appeal or file an appeal on a land use decision.
176	Sen. Corcoran	Asks if Greenleaf was aware of this bill in the interim committee.
178	Greenleaf	Replies that he was not aware of any discussion as he has been with the department a short period of time.
184	Sen. Corcoran	Asks for a concrete example of ODOT intervening.
184	Greenleaf	Replies ODOT has appealed in cases where the transportation impacts of the proposed land use would have significant adverse effects on the transportation facilities.
192	Chair Tarno	Asks if anyone else would like to testify. Brings up the issue of standing and asks how wide the implications are. States he is not sure SB 96 will go anywhere.
211	Jerry Schmidt	Describes his struggle for 10 years to attract development at the top of Mt. Hood. States he has support because the area is dedicated to development, as opposed to other areas on the mountain which are sensitive and not committed. Describes frustrations with ODOT and, in this instance, that ODOT did back out.
275	Sen. George	Asks what is it costing with all this meddling.
295	Schmidt	States he does not know the costs.
		Testimony from Charles Swindells, 1000 Friends of Oregon, on SB 96 (EXHIBIT H) is

		submitted into the record.
360	Chair Tarno	Adjourns meeting at 2:30 p.m.

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,
Administrative Support Administrator

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EXHIBIT SUMMARY

A ñ SB 94, Proposed amendment, staff, 1 p

B ñ SB 524, Written testimony, Rob Bovett, 1 p

C ñ SB 524, Map, Rob Bovett, 1 p

D ñ SB 524, Written testimony, Arthur Roberts, 1 p

E ñ SB 524, Written testimony, Bob Rindy, 1 p

F ñ SB 524, Written testimony, Michael Collmeyer, 2 pp

G ñ SB 96, Written testimony, Craig Greenleaf, 2 pp

H ñ SB 96, Written testimony, Charles Swindells, 1 p