

HOUSE COMMITTEE ON
NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY & ENVIRONMENT

Hearing Room
Tapes - 57

MEMBERS PRESENT:

Rep. Leslie Lewis, Chair
Rep. Lisa Naito, Vice-Chair
Rep. Bill Fisher
Rep. Dennis Luke
Rep. Chuck Norris
Rep. Terry Thompson
Rep. Judy Uherbelau

STAFF PRESENT:

Mark Bauer, Committee Administrator
Sandy Ceballos, Committee Assistant

MEASURES HEARD:

HB 2709 Public Hearing
HB 3081 Public Hearing
HB 3124 Public Hearing
HB 3352 Public Hearing

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , SIDE A

006 CHAIR LEWIS Calls meeting to order at 1:53 PM

HB 2709 PUBLIC HEARING

010 MARK BAUER, COMMITTEE ADMINISTRATOR: Summarizes HB 2709.

013 FRED VAN NATTA, OREGON STATE HOME BUILDERS ASSOCIATION: Submits and reviews testimony in support of HB 2709. (EXHIBIT A)

063 -Continues testimony

117 JON CHANDLER, CHIEF COUNSEL, METROPOLITAN PORTLAND HOME BUILDERS ASSN.:

Home Bldrs. Assn., Cities Counties, DSL, 1000 Friends of Oregon, Oregon Assn. of Realtors, Oregon Mfg'd Housing participated in development of this bill.

Submits draft amendments to HB 2709. (EXHIBIT B)

157 -The number of organizations and interests that participated in this bill was impressive. This bill is an attempt to address some of the land use issues.

181 BOB STACEY, ATTORNEY, ON BEHALF OF LAND CONSERVATION AND DEVELOPMENT COMMISSION: Testifies on the process and the draft amendments.

186 REP. LUKE: Why would they not use the Attorney General's Office instead of hire a private attorney.

218 STACEY: Explains the different sections of the proposed draft amendments of HB 2709. The Urban Growth Boundary doesn't have a twenty year supply of land.

241 REP. NAITO: How will the development patterns be considered.

246 STACEY: A number of steps including that they look at past development patterns. There are additional tests that will have to be met.

263 REP. NAITO: Asks about demonstrable increases.

270 STACEY: Intention behind the language is for additional density.

285 REP. NAITO: What about market forces?

300 STACEY: It's difficult to characterize peoples views in an issue of this complex nature.

322 CHANDLER: Very simple concept we're trying to get at here. Issue between higher density and the urban boundaries.

360 -Not trying to dictate boundaries.

369 STACEY: Continues to describe the different sections of the proposed amendments.

393 REP. UHERBELAU: Asks about the 20 year supply factor:

400 STACEY: States that no it is not a continuous 20 year supply.

412 -Continues to describe the different sections of the proposed amendments.

462 -Continues to describe the different sections of the proposed amendments.

TAPE 53, SIDE A

063 REP. LUKE: Does that mean that all of you recommend that.

065 STACEY: Yes

068 CHANDLER: Further explains the proposed amendments.

079 STACEY: Explains provisions for additional changes to the amendments.

099 REP. LUKE: Can you explain that.

104 STACEY: Explains the "character of the neighborhood" provision.

120 REP. NAITO: Asks how they deal with historic districts.

121 STACEY: The historic area may need to be identified and taken out of the plan.

137 CHANDLER: Section six deals with urban reserve issue.
187 -Still interested in the protection of farm and forest land.

191 REP. LUKE: One of the disturbing things I see in Deschutes county is at current density there is not a 20 year supply of land.

200 CHANDLER: Talks about the trade off in density.

215 REP. LUKE: If it were done case by case there wouldn't have to be a periodic review.

221 VAN NATTA: Use standards to deal with the local jurisdictions.

228 REP. UHERBELAU: See it working fine now, and fine maybe into the near future, but what about coming up with the land necessary to meet the needs in the future. Expresses concern about the prime land.

246 STACEY: Concern shared by many parts of the state. LCDC has looked at that issue, and trying to develop alternative options.

270 REP. NORRIS: Would like to see estimated housing needs for 20 years, instead of an absolute.
298 -Provisions for staffing may be beyond the capabilities for some counties.

315 CHANDLER: Explains if you're inside an Urban Growth Boundary that you aren't forced to expand unless you desire to.

341 REP. NORRIS: Says the cities proposed this bill. Feels solutions to urban problems are being forced on the entire state.

379 REP. NAITO: Recommends an amendment to line 3, page 6.

394 STACEY: The additional requirement in this bill is that a community look at the development patterns at the time of periodic review.

413 REP. NAITO: How difficult is that to do.

422 CHANDLER: His feeling from comments heard is that it would be a fairly simple process.
472 -Attempt was not to create a burden with the process.

TAPE 52, SIDE B

039 STACEY: Comments the regional planners for Metro Portland were in the planning committee for this bill.

050 REP. NAITO: What happens if the outer cities say they won't cooperate, will they then push further into Metro Portland.

059 STACEY: Metro has the authority to require a community to expand it's urban growth boundaries.

066 REP. UHERBELAU: Have you been in contact and talked with the planning people in different parts of the state.

074 STACEY: Albany, Eugene, League of Oregon Cities and others.

084 BURTON WEAST, METRO AND SPECIAL DISTRICTS OF OREGON: Are in support of the conceptual amendments. Insures Metro can carry out their responsibilities. Makes it clear that we are looking at a 20 year supply of land.

119 PHILLIP FELL, LEGISLATIVE DIRECTOR, LEAGUE OF OREGON CITIES: Amendments reflect agreements made on Monday.

141 DON MINER, OREGON MANUFACTURED HOUSING ASSN: Expresses concerns with the amendments. Sections 4, Sub A & B. Density would be set so high, manufactured homes would be frozen out.

174 -Would like the opportunity to review the final draft of the bill.

184 MARY KYLE McCURDY, 1000 FRIENDS OF OREGON: Feels this is a very good improvement on previous attempts at legislation on this issue.

213 SCOTT ASHCOM, OREGON ASSN., OF NURSERYMEN: Describes how the bill impacts the nursery industry.

262 -Consensus group did not contain representation from agriculture. Asks that the committee recognize potential damage to farmers, and request they participate in any work group.

280 CHAIR LEWIS: If farmland is brought into an urban growth boundary does it still receive special farming assessment.

284 ASHCOM: Explains provisions for special assessments on farm land in Urban Growth Boundaries.

315 CHAIR LEWIS: Wouldn't most nurseries meet the income requirements.

324 BILL ATHERTON, LAKE OSWEGO: Thinks that we need to recognize there is no simple solution to urban planning. No other options other than the 20 year supply have been studied, but they would be precluded by this bill.

374 -Would like to return to the committee and show them alternatives to the 20 year rolling supply of land.

427 REP. LUKE: Is there anything in the law that says the UGB has to be in a circle.

436 ATHERTON: The statute doesn't deal with those limits or configuration.

TAPE 53, SIDE B

050 REP. FISHER: Who got us into this land use planning.

056 ATHERTON: Not interested in finger pointing, and debating who's responsible for what.

090 REP. LUKE: Do you have a subdivision named after you.

091 ATHERTON: No.

097 GARY CONKLING, BEAVERTON SCHOOL DISTRICT: Believes the bill offers a unique opportunity for the school community and building community to identify sites that could be used for schools.

147 -Feels this is an area where they can agree on where to site schools, although there may be differences in how to fund them.

155 BRENT CURTIS, PLANNING MANAGER FOR WASHINGTON COUNTY: Reviewed the original bill with the Washington County Board of County Commissioners. Board is recommending the working group's amendments. These amendments address problems they had with the original version of the bill.

 Closes the PUBLIC HEARING on HB 2709.

215 CHAIR LEWIS: Asks Mr. Curtis if he has a time frame in mind.

 HB 3081 PUBLIC HEARING

227 MARK BAUER: Summarizes HB 3081 for committee.

260 JON CHANDLER, CHIEF COUNSEL, METRO PORTLAND HOME BUILDERS ASSN.: Speaks

in support of HB 3081, and submits Draft A-Engrossed HB 3081. (EXHIBIT C)

290 -Working concept started out as a discussion of working densities.

345 REP. UHERBELAU: Questions on which version is this.

359 BOB STACEY, ATTORNEY, ON BEHALF OF LAND CONSERVATION AND DEVELOPMENT COMMISSION: Testifies on the draft amendments which creates an expedited process for review.

415 -Applies to not only subdivision review process, but the whole set of decisions a local government has to go through for review of an application.

455 -Expedited land use decision making process and grievance procedure with

a referee making a ruling which in turn can be appealed to the Court of Appeals.

TAPE 54, SIDE A

043 STACEY: Explains the various sections of HB 3081.

093 -Continues to outline the provisions of HB 3081.

108 REP. LUKE: Is appeal process and LUBA included.

110 STACEY: LUBA is skipped.

151 REP. NAITO: Can you tell us the steps the work group took in developing this draft.

 Closes the PUBLIC HEARING on HB 3081.

 CHAIR LEWIS: At 4:50 p.m. recesses the meeting until 6:30 PM.

178 CHAIR LEWIS: Reconvenes the meeting at 6:34 PM.

 HB 3124 PUBLIC HEARING

187 MARK BAUER, COMMITTEE ADMINISTRATOR: Summarizes HB 3124.

199 JON CHANCELOR, GENERAL COUNSEL, METRO PORTLAND HOME BUILDERS ASSN: Explains that they are working out the conflicts in the bill with the interested parties and will bring the bill back when it has been resolved.

214 BOB RINDY, DEPARTMENT OF STATE LANDS: Acknowledges that they have problems keeping the system working, and agree that HB 3124 is a good idea in principle, but have some problems with the bill.

241 REP. UHERBELAU: You're with the Dept. of State Lands. Let's just let them work it out.

249 Closes the PUBLIC HEARING on HB 3124.

HB 3352 PUBLIC HEARING

260 MARK BAUER, COMMITTEE ADMINISTRATOR: Summarizes HB 3352.

287 JIM WHITTY, LEGISLATIVE COUNSEL, ASSOCIATED OREGON INDUSTRIES: Submits and reviews testimony in support of HB 3352. (EXHIBIT D)

394 J. MARK MORFORD, CHAIR OF THE ENVIRONMENTAL PRACTICE GROUP AT THE STOEL RIVES LAW FIRM: Submits and reviews testimony in support of HB 3352 and is the principle author of Section 5 of this bill. (EXHIBIT E)

444 -Discusses the repercussions of current law and why this bill is needed.

TAPE 55, SIDE A

050 -Discusses the risk assessment procedures of the current law.

100 -Discusses the current Superfund requirements with regard to exposure.

151 -DEQ's risk assessments follow an outdated risk assessment model developed by EPA for the worst Superfund sites in the country.

200 -The Oregon approach is considerably more stringent than required at the federal level for the worst sites in the country.

250 -This section requires DEQ to perform a probabilistic risk assessment consistent with protocols to be adopted by the EQC.

306 REP. NAITO: The concept of cascading liberalism is frightening to her.

315 REP. THOMPSON: The concept of a man sitting on a computer with a bell curve and determining that this is the level where we are safe bothers me.

320 MORFORD: Explains how the levels of the curve work, and how the determinations are made.

370 -Discusses provisions of section (1) (d), describing preferred remedies for hot spots.

400 -This preference for treatment or removal is not absolute. Paragraph (1) (d) provides that hot spots remedies are subject to the same balancing criteria that apply to basic remedies.

450 Discusses how HB 3352 will provide DEQ more specific guidance on what constitutes a reasonable cost.

TAPE 54, SIDE B

050 -Discusses the provisions of paragraphs (1) (g) and (2) (a), which will

require DEQ to take into consideration the current and reasonably likely future land uses of a site.

054 REP. NAITO: What is the thinking on occurrence of natural disasters.

062 MORFORD: If it's a probability it should be taken into consideration.

100 REP. UHERBELAU: Sitting here listening to you discuss Section 2 for over an hour, and still is not sure where we're going. Suggests that the bill needs to be written so that local people can understand it.

137 MORFORD: Would appreciate REP. UHERBELAU'S input to the language of the bill.

148 CHAIR LEWIS: Where you talk about probabilistic risk assessments, what is available as model's for ranges of probabilities.

157 MORFORD: For some parameters there are good statistics available, for other parameters there may not be.

169 CHAIR LEWIS: Does DEQ have at their disposal the computer programs needed to crunch the numbers.

175 MORFORD: Not familiar with the soft ware at DEQ's disposal.

178 CHAIR LEWIS: Asks about clean up of beneficial ground water.

185 MORFORD: Explains the balancing criteria to be used to establish site preferences.

216 CHAIR LEWIS: Can you give us any idea of cost benefit.

221 MORFORD: Highly discretionary, but lists various costs.

233 RICHARD ALLAN, ATTORNEY WITH THE LAW FIRM, BALL, JANIK & NOVACK: Testifies as to the provisions of Section 5 of the bill from written testimony. (EXHIBIT F)

283 Reviews the subsections of Section 5.

296 REP. NAITO: Anytime purchaser interested in piece of property will DEQ be required to review every purchase.

304 ALLAN: Up to purchaser or operator to approach DEQ and present them with what it is they intend to do with the property.

331 REP. NAITO: Will there be a fee.

336 ALLAN: DEQ could negotiate that aspect of the deal.

344 REP. NAITO: Discusses problems of possible delays in processing from DEQ which could cause bad feelings towards that agency.

345 ALLAN: Public benefit is broadly defined, with the intent of encouraging a wide range of approaches, including paying for or performing remedial measures, or productive reuse of vacant or abandoned facilities.

421 REP. UHERBELAU: Wonders about who is going to pay for this, assumes the seller is liable for the contamination. Would not like them to receive the

purchase price and walk away, wonders if there is some mechanism for DEQ to receive some of those funds.

445 ALLAN: Feels there could be a way to set aside a certain amount of the purchase price in escrow to pay for the clean up.

470 REP. NORRIS: Thinks that perhaps that is a separate law.

476 ALLAN: Liability rules state that anyone having reason or likely to know of the contamination is liable.

477 REP. LUKE: If the seller makes no guarantees and there have be no spots found, does this apply in those circumstances.

TAPE 55, SIDE B

054 ALLAN: Would have a defense of saying they have no liability.

095 -Discusses Section 10 of HB 3352.

114 WHITTY: Not bashing DEQ. They have had a monumental job to do and it hasn't been easy.

Have developed the willingness to change, and compliments them on that.

164 -Summarizes the provisions of HB 3352 and urges the committee's support.

169 REP. NAITO: Congratulates authors on the cooperation shown by all in the preparation of this piece of legislation.

186 REP. NORRIS: Is this the conceptual amendment you're talking about?

191 WHITTY: Yes, the one attached to my testimony.

217 MORFORD: DEQ has worked with affected parties like gas station owners with contaminated tanks before.

247 REP. UHERBELAU: Thinks some things can be done with the language to simplify it.

249 MARY WAHL, DEPARTMENT OF ENVIRONMENTAL QUALITY: Submits and reviews testimony with committee. Discusses the areas where agreement has already been reached. (EXHIBIT H)

319 KURT BURKHOLDER: ASSISTANT ATTORNEY GENERAL NATURAL RESOURCES SECTION,

OREGON DEPARTMENT OF JUSTICE: Discusses cost effectiveness: Not quite as simplistic as Mr. Morford would imply:

369 -Discusses options available to the clean up site.

412 -Discusses previous testimony on ground water.

TAPE 56, SIDE A

011 REP. UHERBELAU: Did you look at the levels of carcinogens as well as cost?

017 BURKHOLDER: Yes that was evaluated in the risk assessment.

027 REP. UHERBELAU: Sounds as though you're doing two separate analyses.

045 WAHL: Outlines the areas where they have been able to reach agreement.

Several other parties have been involved in this as well.

057 -Presents additional testimony on Oregon's environmental cleanup needs. (EXHIBIT G)

114 -Discusses the list of Most Common Hazardous Substances released to Oregon's Environment contained in EXHIBIT G.

135 REP. THOMPSON: What is a minimal site.

139 MICHAEL ROSEN, VOLUNTARY SITE CLEAN UP COORDINATOR, DEPARTMENT OF ENVIRONMENTAL QUALITY: Explains what would constitute a minimal site.

158 WAHL: Comments on page 11 of the written testimony. EXHIBIT G.

182 CARRIE NELSON, WESTERN REGIONAL MANAGER, DEPARTMENT OF ENVIRONMENTAL QUALITY: Comments on petroleum contamination and solvent contamination.

226 REP. NAITO: Asks if they could visually display what kind of process they go through to evaluate a site.

238 REP. NORRIS: Asks if they are speaking to HB 3352 or just clean up in general.

254 WAHL: Testifies from the written testimony on Summary of Current Status on HB 3352, EXHIBIT H.

304 -Continues to testify on generic remedies.

354 WAHL: Would like to retain the discretion to waive.

383 -Discusses the seven areas they have not been able to resolve.

397 REP. NORRIS: Seems like we're trying to facilitate the reuse of these sites.

398 WAHL: Explains the provisions of the voluntary clean up sites.

400 PHILLIP FELL, LEGISLATIVE DIRECTOR, LEAGUE OF OREGON CITIES: Testifies in support of HB 3352.

TAPE 57, SIDE A

051 JAN BETZ, DEPUTY CITY ATTORNEY, CITY OF PORTLAND: Generally supports DEQ's version of the bill. Submits and reviews testimony with committee. (EXHIBIT I)

089 MUNRO: Agrees with the removal of Sections 12 - 20.

150 CRAIG JOHNSTON, LEWIS & CLARK LAW SCHOOL: Testifies in opposition to HB 3352.

160 CHRIS TAYLOR, OSPIRG ENVIRONMENTAL ADVOCATE: Submits and reviews testimony with committee. (EXHIBIT J)

242 TOM NOVICK, 1000 FRIENDS OF OREGON: Supports the general goals of the bill as long as they do not compromise human health and the environment.

281 REP. FISHER: Suggest the committee pay attention to the written testimony submitted from those who stayed so late and did not get a chance to testify.

Additional written testimony submitted by the following:
-Marland & Marilyn Henderson, Tigard (EXHIBIT K)

294 Closes the PUBLIC HEARING on HB 3352.

CHAIR LEWIS: Adjourns the meeting at 9:02 PM.

Submitted by, Reviewed by,

Sandy Ceballos Mark Bauer
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - HB 2709, Testimony- VanNatta- 6 pages
B- HB 2709, Testimony- Chandler- 4 pages
C- HB 3081, Testimony- Chandler- 12 pages
D- HB 3352, Testimony- Whitty- 12 pages
E- HB 3352, Testimony- Morford- 11 pages
F- HB 3352, Testimony- Allan- 2 pages
G- HB 3352, Testimony- Wahl- 12 pages
H- HB 3352, Testimony- Wahl- 6 pages
I- HB 3352, Testimony- Betz- 2 pages
J- HB 3352, Testimony- Taylor- 4 pages
K- HB 3352, Testimony- Henderson- 3 pages