

SENATE COMMITTEE ON
WATER & LAND USE

Hearing Room
1:00 P.M. Tapes - 2

MEMBERS PRESENT:

Sen. Rod Johnson, Chair
Sen. Neil Bryant
Sen. Ron Cease
Sen. Bill Dwyer
Sen. Bob Kintigh

STAFF PRESENT:

Karen Quigley, Committee Counsel
Kimberly Shadley, Committee Assistant

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

CHAIR JOHNSON: Calls the hearing to order. (1:08 p.m.)
(Introduces Committee members.

WORK SESSION - CONSIDERATION OF RULES

(The Senate rules aren't settled at this time, so I would like to adopt
the committee rules distributed as temporary rules, (EXHIBIT A).

MOTION: CHAIR JOHNSON MOVES ADOPTION OF TEMPORARY COMMITTEE RULES AS HAND
ENGROSSED BY STAFF.

025 SEN. DWYER: Paragraph thirteen?

CHAIR JOHNSON: That has been deleted.

VOTE: HEARING NO OBJECTION THE MOTION CARRIES.

045 CHAIR JOHNSON: Opening remarks.

INFORMATIONAL HEARING

Witnesses: Dick Benner, Department of Land Conservation and Development,
(DLCD)

Sue Hanna, Deputy Counsel, Legislative Counsel, (LC)
Keith Cubic, Douglas County Planning Department Director
Don Schellenberg, Oregon Farm Bureau
Dorothy Cofield, Staff Attorney, Oregonians in Action
Bill Moshofsky, Oregonians in Action
Robert Liberty, Director, 1000 Friends of Oregon
Kelly Ross, Oregon Association of Realtors

080 DICK BENNER, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT, (DLCD):
Submits and summarizes (EXHIBIT B).

(Our mission statement talks about encouraging sound land use planning in
order to maintain the livability of Oregon communities.

(Our most fundamental work historically has been to protect the land base
for commercial agriculture, commercial forestry, and to equip communities
to manage urban growth and developments.

(Describes programs.

150 BENNER: The Commission has been making adjustments to the program that respond to implementation of the program; we've revised rules for unincorporated communities.

(The Commission is into an evaluation of Goal 5; we are gathering consensus on a series of concepts for changes to Goal 5 and would like to present those to you at some point.

(We are looking at revisions to the Transportation Planning Rule, (TPR).

241 BENNER: Describes report on HB 3661, see Exhibit B.

(It appears that there are large numbers of non-farm dwellings and new non-farm parcels happening.

SEN. CEASE: The bill doesn't apply to the Willamette Valley?

BENNER: That is right.

(The template test dealing with dwellings in forest lands is allowing approval of more dwellings.

333 SUE HANNA, DEPUTY COUNSEL, LEGISLATIVE COUNSEL, (LC): HB 2932 dealt with destination resorts; describes.

(HB 3045 deals with development agreements; describes.

408 HANNA: HB 3661 has been described as "BLUB", the big land use bill.

(You've been given a hand out on HB 3661, see (EXHIBIT C).

(Describes secondary lands and lot of record.

SEN. CEASE: The more recent in time the date is, the more lot of records that are allowed; do we have a sense of what the change might be?

HANNA: I don't know; I'm not sure that LCDC or the Counties could tell you; we are talking about when people owned land and if they might want to build; it would be very speculative.

TAPE 2, SIDE A

040 HANNA: This changed the Smith case, which specified which kind of farm land you could build on and which you couldn't.

(This lays out when you can have a dwelling on forest land, see Exhibit C.

(We also visited the Clark Case in HB 3661.

(In the past instead of remanding cases LUBA would affirm cases saying considerations weren't important and now LUBA can't say that, the local government must decide every aspect.

101 SEN. CEASE: Do you have a sense of where local governments are on that?

HANNA: I don't.

(SB 122 deals with the provision of urban services and provides for cooperation between local governments; describes.

(SB 908, school facility planning; there are problems with certain local governments being reluctant to go forward with development because they don't have school capacity.

157 KEITH L. CUBIC, DOUGLAS COUNTY PLANNING DEPARTMENT DIRECTOR: Submits and summarizes written testimony and informative material, (EXHIBIT D).

(People have an expectation that if they purchased a lawfully created parcel they should be able to get a building permit; it is an issue that is

constantly facing government.

SEN. DWYER: Do people ever expect to be able to put more than one dwelling on a parcel?

CUBIC: No, they just assume that a dwelling would go along with the land, or the right to have a dwelling.

290 CHAIR JOHNSON: There is confusion with the two different sizes; people assume that minimum lot size means entitlement to a dwelling.

CUBIC: Describes hand outs, Exhibit D.

SEN. CEASE: On the orange sheet, is this in reference to recent rule adoptions?

365 CUBIC: They were adopted in February of 1994.
(Douglas County is experienced with the "go-below" process, (215.780).
(The Commission should allow counties to designate areas where a single property should go in or out.
(The "go-below" process is valid, but you need to look at it.
(Goal 5 deregulation; the House and Senate should monitor that.
(The exceptions process is constantly an issue.

460 CUBIC: The role & duties of LCDC; see buff colored page of Exhibit D.
(Another issue is compensation; Oregon shouldn't consider any compensation program unless they can establish a corresponding real-estate benefits tax system.
(On rural lands management, good progress has been made.

TAPE 1, SIDE B

CUBIC: It has been nine years and Douglas County still has people waiting for statewide policy.

047 DON SCHELLENBERG, OREGON FARM BUREAU: Reads written testimony, (EXHIBIT E).

SEN. KINTIGH: I know many members of the Farm Bureau who wouldn't agree with what you've said.

SCHELLENBERG: That is correct; we don't have 100% agreement.

SEN. DWYER: Do you think it would work better if we used the concept of current and present rather than highest and best; it would take some pressure off development?

SCHELLENBERG: That is what we are doing, it's called farm use assessment; it assesses farm land on it's ability to produce.

125 SEN. CEASE: If you protect commercial, agriculture and farm use lands, you have to deal with the interface area.

141 DOROTHY COFIELD, STAFF ATTORNEY, OREGONIANS IN ACTION: Describes organization.

164 BILL MOSHOFSKY, OREGONIANS IN ACTION: The amount of land zoned farm and forest is more than was intended.
(It is very difficult to get a dwelling; we need a secondary land bill that deals with miss-zoning and that Goals 3 & 4 doesn't apply to.

205 COFIELD: Our next bill is a redraft of HB 3087, (1993), LC 367; describes intent.
(Another bill deals with lot size; we also have a bill that will abolish the \$40,000 - \$80,000 minimum income standard.
(We also have a bill that will limit LCDC authority to matters of statewide significance, leaving the rest to local control.
(Continues describing legislative package.

272 ROBERT LIBERTY, DIRECTOR, 1000 FRIENDS OF OREGON: I will concentrate on rural elements of the program, review some history and offer some advice.
(We believe protection of farm land is essential and that we need to keep private timber land available for timber production; we believe our cities and town should be placed where people want to live.
(Reviews history of secondary lands.
(Submits copy of HB 3661-B, (1993); describes bill.
(Describes theory of lot of record; continues describing HB 3661.

463 LIBERTY: In several parts of the state we think that commercial agriculture is threatened by development.

TAPE 2, SIDE B

038 LIBERTY: Don't rely on lawyers criteria, your work is important to the future of this state.

(When planning, use a map and know what is already there.

079 SEN. BRYANT: Water rights; if there isn't sufficient water there is priority based on date, so there is protection for the people who have existing water rights.

(If you condition new permits that offers protection for the existing water right.

LIBERTY: I think we are going to create a big fight when that starts to happen.

(We need to look at the implications; tax payer impact, timber supply impact, farmer impact, water impact and then we can start to have a more well rounded view.

130 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Submits written testimony, (EXHIBIT F).

(We have introduced two bills this session, the first would require LCDC to prepare an economic impact analysis whenever they propose goal and rule changes.

(The second bill deals with the 120 day requirement on application approval or denial; the procedure for enforcing the 120 day requirement often takes two to three years.

191 CHAIR JOHNSON: We are adjourned. (2:35 p.m.)

Submitted by, Reviewed by,

Kimberly Shadley	Karen Quigley
Committee Assistant	Committee Counsel

EXHIBIT SUMMARY:

A - Temporary committee rules submitted by staff, pp 3
B - Written testimony & Informative material submitted by Benner, pp 7
C - Informative materials on HB 3661 (1993) submitted by Hanna, pp 7
D - Written testimony & Informative materials submitted by Cubic, pp 14
E - Written testimony submitted by Schellenberg, pp 1
F - Written testimony submitted by Moshofsky, pp 24
G- Informative materials submitted by Ross, pp 1