

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: June 24, 1993
TAPES: 199 - 202 PLACE: Hearing Room C
TIME: 4:00 PM

MEMBERS PRESENT: Senator Ron Cease, Chair Senator Jim Bunn,
Vice-Chair Senator Joyce Cohen Senator Shirley Gold Senator Bob Kintigh
Senator Bob Shoemaker Senator Gordon Smith

STAFF PRESENT: Chris Warner, Research Associate Pamella Andersen, Clerk

MEASURES HEARD: HB 3661

[--- Unable To Translate Graphic ---] 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. [--- Unable To Translate Graphic ---]

TAPE 199, SIDE A

005 CHAIR CEASE: Calls the meeting to order. (4:00 p.m.) - Opens the public hearing on HB 3661.

PUBLIC HEARING ON HB 3661

WITNESSES: Bill Moshofsky, Oregonians in Action Roy Burns, Lane County Don Schellenberg, Oregon Farm Bureau Hector Macpherson, LCD Commission Lyle McGloughlin, 2020 Commitment John Hassin Reed Pininon Art Schlack, Association of Oregon Counties Russ Nebon, Land Use Specialist Mike Probst Dennis Goetz, Yamhill County William Boyer, ARLU DeCo Virgil Harper, Concerned Citizens for Smith Rock Area John Barr Jen Twinning Brian Meece Jackie Bushong Ray Shumway John Schoonover Richard Vale Francis Stere, Rancher

CHAIR CEASE: We will begin as a subcommittee. - Notes the written testimony submitted and phone calls received.

039 BILL MOSHOFSKY, OREGONIANS IN ACTION: (introduces EXHIBIT A) Offers testimony in opposition to HB 3661. - Discusses the various options presently existing.

076 MOSHOFSKY: This is not planning, but rigid regulation. - Discusses SB 100 and the results of its implementation. - Goal 14 would remain even if you eliminated or changed goals 3 and 4.

128 MOSHOFSKY: We believe in a straight forward approach to regulation planning such as in HB 2758 which would restore the intent of SB 100 by retaining EFU zones, prime or farm land and rezoning to secondary the less productive land that was miszoned. - We need to do planning, which wasn't done during implementation of SB 100.

181 ROY BURNS, LANE COUNTY: (introduces EXHIBIT B) Offers testimony in support of HB 3661. - Notes letter from Lane County Commissioners, see Exhibit B.

BURNS: Consider ways for us to reestablish our planning role.

265 DON SCHELLENBERG, OREGON FARM BUREAU: (introduces EXHIBIT C) - This bill ignores the land quality factor. - The identification method of secondary lands must include a combination of soil quality, parcelization and physiological characteristics; see Exhibit C. - We are concerned about limiting LCDC to enforce its own laws. - We are pleased the right to farm language is part of the bill. - The language in HB 3196 is better. - On page 38, "may" in line 6 should be "shall". - Buffer concept originally in HB 3196 should be reinstated.

379 SCHELLENBERG: We are opposed to language in section 53 which removes the ten year tax penalty when a farm home site is separated from the farm parcel. SEN. KINTIGH: You say this bill ignores the quality factor?

408 SCHELLENBERG: That is not the primary focus of the bill, however that is true.

SEN. KINTIGH: I'm not sure I agree.

CHAIR CEASE: Your interest is to protect the land over time?

SCHELLENBERG: That is correct. - Nursery operations are an example of 5 acres (small).

457 HECTOR MACPHERSON, FARMER, LINN COUNTY AND MEMBER, LCDC COMMISSION: - Describes intent of SB 100.

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030 MACPHERSON: The philosophy was in the companion bill to SB 100, SB 101. - The policy statement would be deleted (repealed) in this bill. - The basis of tracts rather than farm units is ridiculous. - Notes his nephew farming 3000 acres, with a noncontiguous tract of land and compares to his land tracts. - Commission oversight is good.

101 CHAIR CEASE: You don't feel the land use problem can be solved?

SEN. SMITH: We may never settle these disputes, but the legislature has never made a small crack at modifying this to give relief to people in secondary lands. - Wouldn't our doing that have a saltatory affect on the body politic in this issue?

MACPHERSON: I have long supported the fact that there is land that does not need to be tied up to the degree that more productive land is. - Let's look at the fairness issues. - Look at the lot of record and the possibility of replacement dwellings.

CHAIR CEASE: We get extreme ends of the spectrum in response to this bill. - If we can we will craft a compromise, although that doesn't guarantee everyone's satisfaction.

SEN. SHOEMAKER: What are you thinking in terms of the lot of record? - How would you restrict lot of record without disrupting prime farmland or vice versa? MACPHERSON: I think it can be done, but hesitate to give complicated details.

217 SEN. ADAMS, SENATE DISTRICT 25: Offers testimony in support of HB 3661. - I believe there is opportunity to return balance to the land use system.

236 LYLE MCGLOUGHLIN, PRESIDENT, 2020 COMMITMENT: Discusses the background and purpose of their group. - We are concerned about over regulation and the lack of planning. - We see regulation thwarting economic growth in our area. - We would like to see the protection of prime farm and forest lands, right to farm, and lot of record. - We believe this bill is going down the right avenue. - One major concern is the affordable housing element.

343 JOHN HASSIN, MEDFORD, OREGON, 2020 COMMITMENT: Offers testimony in support of HB 3661. - This bill is already a compromise. - Discusses the people in Oregon that deal with land use issues. - Discusses specific farm in Jackson County and the resulting appeal relative to a 40 acre section of rocky ground. - The ultimate rule was that LUBA should not remand decisions of the local governing body when certain circumstances are evident. - Notes the time and cost to the small rancher involved. - Notes the geographic areas of Oregon should be treated differently.

TAPE 199, SIDE B

HASSIN: Discusses class 4 land with dwelling to be converted to buddhist temple. - Notes the time and cost involved and that the land was not good farm land. - The non-farm dwelling part is important. - I believe prime farm and forest lands need to be protected.

085 SEN. COHEN: How does your group feel about further partitioning?

HASSIN: We are supportive of the lot of record bill, but we do not support further partitioning. - The problem is the local governing bodies don't have enough flexibility anymore. - It costs \$200 to appeal to LUBA.

124 HASSIN: I think you can protect resource lands, by defining uses of the land, limiting it. 133 SEN. SHOEMAKER: Would you allow any lot of record to be developed to that limited extent?

HASSIN: My leaning would be, if a person purchased a piece of property at a time when they could build a dwelling, that person who has a valid lot and had that right, should be able to put a dwelling on it.

SEN. SHOEMAKER: Regardless of the impact on surrounding or near by farm or forest land?

HASSIN: You can protect the surrounding properties by the right to farm and right to forest provisions.

SEN. SHOEMAKER: Bringing in roads in itself it is disruptive.

HASSIN: There are exceptions; on that point I may agree. - Agrees with provision to allow a farm dwelling on land that is not presently farmed. - Discusses existing pig farm in his county that can't be moved to Jackson County.

197 REED PINION, JACKSON COUNTY, MEMBER OF 2020 COMMITMENT: Offers testimony in support of HB 3661. - Notes his personal land ownership. -

I support the lot of record. - By living on the land it is more productive and better cared for. - Questions on the definition of being "principally engaged in farming" have been raised. - I support hobby farms, they add to economy and beauty of environment.

261 ART SCHLACK, LAND USE SPECIALIST, ASSOCIATION OF OREGON COUNTIES: (introduces EXHIBIT D) Offers testimony in support of HB 3661. - The Association supports legislation that restores balance between local planning responsibilities and oversight by LCDC. - See written testimony, Exhibit D.

330 SEN. COHEN: How would the counties feel about removing option two?

SCHLACK: We will talk about that with you. - Continues with written testimony.

377 SEN. BUNN: This would be costly?

SCHLACK: Local planning staffs aren't equipped with staffing necessary to undertake the options within HB 3661; we will have to add staff or contract and that isn't within our budget.

SEN. BUNN: Of the four options, how many can be carried out with the dollars available now?

420 SCHLACK: Some may be able to do it with the existing dollars, but for the eleven counties to do high value farm land, it may be up to a million dollars. - The provisions for correcting Smith versus Clackamas County should apply to all counties. - We are willing to work with you to draft amendment.

TAPE 200, SIDE B

029 MIKE PROBST, POLK COUNTY COMMISSIONER: As HB 3661 has been presented it appears to be a complicated bill to understand; you need to understand that this is normal for counties, we deal with land use every day.

SEN. SMITH: Is it less complicated than the LCDC rules?

PROBST: It is on the par; it is typical land use. - The question is does it solve some of the problems or not, that is what is important. - References Exhibit E. - We need to work on weak parts and come out with a fix for our land use system.

SEN. KINTIGH: Notes county commissioner last night that didn't like all the options. - Can you make a decision against the pressure?

PROBST: Yes.

091 DENNIS GOETZ, YAMHILL COUNTY COMMISSIONERS: As you consider HB 3661, we would like you to consider our priorities. - The lot of record provision is a necessity. - The provision should address all resource land, not just small scale lands.

SEN. BUNN: You believe the county should be able to put some restrictions on building?

GOETZ: Definitely; we put on all kinds of conditions as it is. - Section

77 is identical to SB 750 in 1991. - Reads extensively from a book he has and did not distribute. - Notes memo to Rep. Marilyn Dell, (introduces EXHIBIT F).

155 RUSS NEBON, MARION COUNTY & ASSOCIATION OF OREGON COUNTIES: I've put together flip charts that I will bring back when you are ready. - There are improvements in this bill that deal with the three tiered system on the forest lands, using the income test to distinguish high value farm and I would like to explain why lot of record isn't the whole problem here.

183 WILLIAM BOYER, CHAIRMAN, ALLIANCE FOR RESPONSIBLE LAND USE IN DESCHUTES COUNTY, (ARLU DECO): (introduces EXHIBIT G) The secondary lands concept in HB 3661 involves a basic fallacy; it presumes that if certain farm and forest land are strong producers per acre, they should be put into residential use and I think the opposite it needed. - Do not tinker with a fundamentally flawed bill, just reject it outright.

245 VIRGIL HARPER, CONCERNED CITIZENS FOR SMITH ROCK AREA: (introduces EXHIBIT H) - Is there a need for such a bill? - Have water, clean air and forestry products been given consideration? - This bill is confusing and contradictory. - It would be irresponsible to allow any version of HB 3661, including the Dell amendment, to pass.

325 JOHN BARR, HOOD RIVER, OREGON: (introduces EXHIBIT I) Discusses background and the impact land use has had on him personally. - Summarizes written testimony, see Exhibit I.

TAPE 201, SIDE A

020 BOB PICKARD, TUMALOW, OREGON: Reminisces about the land in Anaheim during his childhood and the changes made. - Discusses the greed of developers.

BARR: Reads letter on behalf of Walter Beck, (introduces EXHIBIT J).

091 JEN TWINNING, CENTRAL AND EASTERN OREGON: (introduces EXHIBIT K) Offers testimony in opposition to HB 3661. - Opposes lot of record. - Clear and objective standards are requested. - Current dwelling criteria should be maintained. - Proven availability of groundwater should be required. - Discusses case law.

198 BRIAN MEECE, PROPERTY OWNER: (introduces EXHIBIT L) Offers testimony in support of HB 3661. - Believes LCDC and DLCD are out of control. - Displays a map of Deschutes County noting publicly owned portions add up to 79%; for perspective, less than 10% is what we are arguing about. - Notes portions of the land that can't support any vegetation. - We need to support lot of record and return local control to the citizens.

260 JACKIE BUSHONG, POWELL BUTTE: Offers testimony in opposition to HB 3661. - DLCD is out of control. - We produce so much the federal government has to pay us not to produce. - Control needs to be returned to counties. - State government needs to get out of land use. - If people want land for wildlife habitat, they should pay the private landowners for it. - Notes what she thinks should not be objected to; (developments in the Urban Growth Boundaries).

366 RAY SHUMWAY, LIFE TIME FARMER\RANCHER, OREGON: Notes his land

holdings. - Notes personal land use planning involvement. - Expand mediation; the present makeup of the staff wouldn't allow it to go to mediation. - Expand the commission, go further, make it larger, or give it a broader based makeup. - Stick with a broad policy statement giving support for the secondary lands concept; go to OAR Chapter 660 and remove the sections dealing with secondary lands.

TAPE 202, SIDE A

025 JOHN SCHOONOVER, KLAMATH FALLS, OREGON: Testifies in opposition to the methods of LCDC. - LCDC would not approve building permits on parcels even though the county planners, etc. approved. - Discusses the division of land in Klamath County, which have been ruled by LCDC to have to be of minimum acreage.

080 SCHOONOVER: Discusses minimum farm size in Klamath County which are not considered for building houses and can't be sold. - Displays 1988 foreclosure list of private property, due to their not being approved for building, and therefore are unsalable. - There are about 15,000 parcels therefore that haven't paid taxes. - My main concern is all of the decision making has been taken away from the County Commissioners. - Discusses two rulings in Supreme Court.

SEN. SHOEMAKER: Are those 15,000 parcels all lot of record?

SCHOONOVER: They were lot of record and were nonconforming.

SEN. SHOEMAKER: If we were to allow building on lot of record would all those qualify?

SCHOONOVER: The 3200, most of those were lot of record.

127 CHAIR CEASE: It would depend on how you defined it. - There were short periods of time after SB 100 when lot of record was allowed to develop.

SCHOONOVER: They remain on the books as foreclosed property. - Returns to supreme court rulings. - Our county comprehensive plan was developed in 1986, and was held up by LCDC.

174 RICHARD VALE, BENTON COUNTY: In determining the value of land we need to address the bottom line that value = economic rent. - Elaborates on the concept. - Discusses economic threshold. - This tells me they want to manage all the land down to that valued at \$1 per acre.

SEN. COHEN: Please forward your economic rents on HB 3661 to me.

240 VALE: Discusses his experience in trying to build on his 10 acres and the impact on his tax expenditures.

SEN. COHEN: You can't blame that on LCDC, the Revenue Committee made that determination. - The extent to which you get a break on farm and forest operation, your neighbors have to pay.

VALE: If I voluntarily give up this forest deferral, it will be gone from the property forever, no one can ever get it back.

344 FRANCIS STERE, LINCOLN COUNTY: Describes her personal farm, (cattle ranch), 126 acres. - \$50,000 figure should be lowered as we

can't meet it even though we are a valid farm. - Discusses rural lifestyle and the problem she has had with dogs chasing her cattle. - Notes how neighbors complain about when you log your own land because it spoils their view. - When I consider secondary lands, I consider soil types.

405 CHAIR CEASE: In this statute there is also the money issue.

STERE: Secondary lands have a lot to do with the talent of the farmer. - Discusses decisions of County Commissioners, which she feels are impacted by the tax dollars. - Many of us couldn't remain on the farms if they weren't zoned EFU. - LCDC needs to look at their rules, more people should be placed on the committee.

TAPE 201, SIDE B

055 CHAIR CEASE: How do you define "rural" in your area?

STERE: My road is only eight miles long; there are other areas where there are farmers; maybe I should say we need more farmers and ranchers on the Commission that understand the problems with agriculture.

CHAIR CEASE: We will try to do our best; we still have people to listen to and then we have to see what we can do. - Closes the public hearing on HB 3661.

082 CHAIR CEASE: We are adjourned. (7:05 p.m.)

Submitted by:

Reviewed by:

Pamella Andersen

Chris Warner Clerk Administrator

EXHIBIT LOG:

A Testimony on HB 3661 - Bill Moshofsky - 4 pages B Testimony on HB 3661 - Steve Coracchia - 1 page C Testimony on HB 3661 - Don Schellenberg - 3 pages D Testimony on HB 3661 - Art Schlack - 2 pages E Testimony on HB 3661 - Russ Nebon - 1 page F Testimony on HB 3661 - Dennis Goetz - 2 pages G Testimony on HB 3661 - William Boyer - 2 pages H Testimony on HB 3661 - Virgil Harper - 2 pages I Testimony on HB 3661 - John Barr - 1 page J Testimony of Walter Beck on HB 3661 - John Barr - 1 page K Testimony on HB 3661 - Jen Twining - 10 pages L Testimony on HB 3661 - David Meece - 9 pages M Testimony on HB 3661 - Jean Nath - 1 page N Testimony on HB 3661 - Bonnie Smith - 2 pages O Testimony on HB 3661 - Shelley Murphy - 1 page P Testimony on HB 3661 - Lamont Dunnam - 2 pages Q Testimony on HB 3661 - Tom Gravon - 2 pages R Testimony on HB 3661 - Dianna Darold - 1 page S Testimony on HB 3661 - Mimi Stout - 1 page T Testimony on HB 3661 - Ellen Warring - 3 pages U Testimony on HB 3661 - Jim Ludwick - 2 pages V Testimony on HB 3661 - Jack Finzel - 1 page W Testimony on HB 3661 - Susan Crosby - 3 page X Testimony on HB 3661 - Elmer Werth - 1 page Y Testimony on HB 3661 - Betty Heininge - 1 page Z Testimony on HB 3661 - Ron Meyer - 1 page AA Testimony on HB 3661 - Grace Gantt - 1 page BB Testimony on HB 3661 - Gary George - 1 page CC Testimony on HB 3661 - Judy Gerrard - 3 pages DD Testimony on HB 3661 - Robert Kirkpatrick - 3 pages EE Testimony on HB 3661 - Vanessa Julian - 1 page GG Testimony on HB 3661 - Leslie Elliott - 1 page

