

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: June 29, 1993 TAPES: 207 - 210 PLACE: Hearing Room C
TIME: 5:00 PM

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

MEMBERS EXCUSED: Senator Shirley Gold

GUEST MEMBERS: Senator Wes Cooley Representative John Schoon

STAFF PRESENT: Peter Green, Administrator Chris Warner, Research
Associate Kus Soumie, Clerk

MEASURES HEARD: HB 3661 PUB

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE
STATEMENTS MADE DURING THIS SESSION. ONLY TEXT ENCLOSED IN QUOTATION
MARKS REPORTS A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE
PROCEEDINGS, PLEASE REFER TO THE TAPES.

TAPE 207 SIDE A

005 CHAIR CEASE: Calls the hearing to order. (8:00 A.M.)

PUBLIC HEARING ON HB 3661 WITNESSES: Sen. Wes Cooley, Senate
District 28 Rep. John Schoon, House District 34 Jerry Rust, Lane County
Commissioner Jim Rounsefell, Citizen James Monroe, President, Linn
County Farm Bureau

013 SEN. WES COOLEY, SENATE DISTRICT 28: Presents overview of
geographical differences in the state and how it applies to land use
policies in

Oregon.

_ SB 100 was applicable to the Willamette Valley, without consideration
to the East side of the state; geographically we have two different
states in one.

_ Gives background on SB 100; some of Oregon's best farm land is in the
I-5 corridor.

067 SEN. COOLEY: This is an attempt to give some control back to the
local government and back to the local planning commissions.

_ We need to look at this bill to find a way to relieve the control that
LCDC has over the local counties.

101 SEN. COOLEY: I would like to read a letter into the record, from
Matt Cyrus in support of HB 3661, see Exhibit P.

_ The Cyrus family has the largest commercial farming operation in the Deschutes area; the Eastern and Southern part of the state need to have some relief from the dictatorial powers of LCDC.

153 SEN. SMITH: Are you familiar with the Lot of Record Bill?

SEN. COOLEY: Yes; I think that bill approaches the problem in a different way; I think the flaw is the date of the Lot of Record, I think it should be moved up and not back.

190 REP. JOHN SCHOON, HOUSE DISTRICT 34: Presents overview of support in his rural district for the proposed legislation.

_ For Polk and Benton Counties, we need to have our commercial agriculture lands protected from further parcelization and development; the bill doesn't protect our farm land in the Willamette Valley.

_ HB 3661 has a provision calling for a local committee; we need to preserve the commercial farm and forest areas.

_ The local committee is the only way I know of that we can decide where the lines should be drawn, between the commercial lands and the non-commercial areas.

312 REP. SCHOON: This bill doesn't do a good enough job of protecting the farm lands in the Valley and I can not support it the way it is.

SEN. BUNN: Have you looked at the minority report?

REP. SCHOON: No, I haven't; the Lot of Record is fine, except in the commercial areas.

345 SEN. SMITH: Does right to farm legislation help or just shift the fight? REP. SCHOON: I think it provides some protection; I support right to

farm and think it is a good thing and am confident that it won't be carried to excess where there are actual cases of trespass through negligence.

380 JERRY RUST, LANE COUNTY COMMISSIONER: Gives visual presentation on prime, marginal and secondary lands.

_ Our county is about 2.9 million acres with 2.5 zoned and planned for forests, half of it is in federal ownership; 94% of that forest zone is in the F1, where no dwellings are permitted.

_ A wide open Lot of Record in Lane County would mean that if all the

EFU parcels and forest parcels that haven't been built upon were to be developed, there would be about 6,000 new dwellings; I'm not sure that is the way to go.

_ I think that this bill provides a vehicle that is superior to the Lot of Record.

_ Shows map of Lane County and what Lot of Record would mean.

TAPE 208, SIDE A

030 RUST: Continues showing map of Lane County, describing land zones.

054 JIM ROUNSEFELL, CITIZEN: Describes situation created when his parents left land to himself and his brother; describes problems with land use

planning in secondary lands.

_ We have land regulations, I've never seen a plan; describes frustrations with government.

_ This bill says you want to change 91 laws and get rid of 15.

170 JAMES MONROE, PRESIDENT, LINN COUNTY FARM BUREAU: Submits informative material in opposition to HB 3661, (EXHIBIT A).

_ We do need a secondary lands program; right now, in Linn County, there is an informal secondary lands policy.

238 MONROE: There are five areas I would like to discuss; the tax deferral for non-resource use of resource lands, the right to farm, aggregate

mining, the Lot of Record provisions and the non-resource dwellings in resource zones.

_ Discusses each of the five topics, expressing opposition.

300 MONROE: Discusses property owned by Oregon State University in Corvallis; gives history of crops on the property and reasons the crops failed; the property is now being used for study.

_ Describes lock boxes and electric fences necessary to keep vandals out.

448 KATHRYN PEROTTI, SENIOR DEPUTY CITY ATTORNEY, CITY OF PORTLAND: Presents overview and amendments to section 32 of HB 3661, EXHIBIT B.

_ Describes statutory background for the VonLubkin ruling.

TAPE 207, SIDE B

041 PEROTTI: In short, the VonLubkin decision mixes the concepts of effectiveness of a local regulation with acknowledgement; the amendment submitted would separate those concepts, see Exhibit B.

059 JAMES COLEMAN, ATTORNEY: Submits written testimony, EXHIBIT C.
_ Gives details on the VonLubkin case.

120 DIANNA GARDENER, FARMER: Submits written testimony, EXHIBIT D.
_ The elimination of the large block provision will threaten commercial farm land.

_ People with urban attitudes shouldn't be living on farm and forest land; rural homesites exasperate forest fire problems.

_ In Jackson County the County Commissioners are unable to implement land use regulations without the oversight of the state wide goals and the central enforcement body; see Exhibit D for statistics.

167 CHAIR CEASE: Would it be your sense that people that are full time farmers or full time in the timber business would agree, that if you

leave it to the County Commissioners, they can't resist the pressures for development?

GARDENER: This has been our personal experience.

248 RICHARD BLAINE, FARMER, PARKDALE, OREGON: Submits and reads written testimony in opposition to HB 3661, EXHIBIT E.

_ Hood River production of fruit is 500,000 tons per year, double that of ten years ago.

388 SEN. SHOEMAKER: Do you have any suggestions on how to modify the Lot of Record approach so that it may be something we could live with?

BLAINE: In Hood River there are many many Lots of Record; the combination of these lots over the last fifty years has created these orchards. GARDENER: Water shed protection should be taken into account when

thinking about Lot of Record; people living in rural areas damage water sheds and have a negative impact on large urban areas to provide water in the future.

_ How many people do we need to have living in rural areas; is it really something that benefits society; it is costly to us all.

TAPE 208 SIDE B

032 SEN. SHOEMAKER: If the land sought to be developed has been used for crop production within five years, it wouldn't qualify for the Lot of

Record provision.

BLAINE: Agriculture is evolving; the land that may not have had a plow into it today, may be used for some other purpose five or ten years from today, as technology advances.

SEN. SMITH: We talk about new people coming to Oregon, where would you have them go?

BLAINE: Hood River County could double in population without changing any zones and that isn't even including the vacant lots in the city or in Cascade Locks.

_ There are thousands of parcels out there of one to one and a half acres; there are non-conforming lots, there are rural residential areas.

101 GARDENER: Our model for urban living is too narrow; we can't sprawl over all of our rural lands with each person living in an individual

structure with a garden around it.

_ Areas with high densities can be extremely bearable and pleasant; we can make our urban areas attractive and livable so people don't feel they have to flee from them and that is part of what land use planning should accomplish as well.

120 JEAN MARTIN, JACKSON COUNTY FARMER: I have submitted a copy of the Jackson County Citizen, EXHIBIT F.

_ We can't have, in Jackson County, an unlimited amount of growth; we have this league partly because of the problems with the county government, caving in to any pressure.

_ If it wasn't for the state wide planning laws, Jackson County would be a mess; in any way, don't weaken it.

180 BARBARA BAILEY, CHERRY FARMER: Describes background; testifies in opposition to HB 3661.

_ The right to farm clause doesn't eliminate the interface conflicts if there are more non-resource homes in resource areas.

_ Counties will return to precedent planning; planners aren't given the incentive to look at ramifications.

_ Parcelization of resource lands puts new demands on the counties for infrastructure and services.

250 BAILEY: I am offering you a copy of the Columbia River Gorge Commission management plan for the national scenic area; residential use is allowed in appropriate areas.

270 DONELLA POLEHN, THE DALLES, OREGON: Submits written testimony in opposition to HB 3661, EXHIBIT G.

_ Our payroll goes into the economy of this state, and it was generated by the fruit raised on marginal lands; I brought you a sample of the product that we raise, (cherries), on our land that would be considered marginal and could fall prey to urban development.

_ We have taken on parcels of land owned by people who got tired of farming; sometimes a change of ownership is a good thing.

_ We have to keep some avenues open for young people to get into agriculture.

359 ROBERT LIBERTY, CITIZEN: Testifies in opposition to HB 3661, submits proposed solution, (EXHIBIT H).

_ There are legislators who think that compromise is necessary to appease critics of the planning program; those who suggest that don't understand the history of the program.

_ In 1991 - 92 reporting year, Jackson County approved 190 new dwellings in it's forest zones, approval rate being 100%.

_ Discusses Josephine County.

490 LIBERTY: LCDC let Josephine County get away with murder, yet who has been here testifying but Josephine County, still objecting to the

program.

TAPE 209, SIDE A

040 LIBERTY: Shows map prepared by Douglas County; describes.

074 SEN. KINTIGH: I know that a large percentage of lands in Jackson and Josephine County are low site land; it isn't what most call prime land.

LIBERTY: You are trying to compare parts of Oregon, but Oregon is a prime timber producing state.

_ Describes study done in New Jersey.

135 SEN. SMITH: Are you saying that you oppose tax breaks?

LIBERTY: I'm saying they are being abused because they are being given to people who are hobby farmers; this bill would expand that problem.

_ HB 3661 is unnecessary and fiscally irresponsible; we've tried local control and it isn't working.

250 LIBERTY: With respect to Rep. Dell's amendments, reject them; this is not a reasonable careful approach.

SEN SMITH: Would a legitimate reason for trying to do something like Rep. Dell's approach be to keep some consensus alive, for land use planning in Oregon?

LIBERTY: There will never be consensus; the time when the program will stabilize is when people realize that they can't put pressure on their legislators and local officials to bend the law.

287 SEN SMITH: What does ownership of the land mean; is it somewhat of a lesser right than owning a different piece of property?

LIBERTY: Land owners have special rights; I think you are entitled under the U.S. Constitution to a beneficial use.

332 GEORGE FORSMAN, CANBY, OREGON: The land around my farm is rather marginal farm land; the county wanted to zone this EFU forty when the

average lot size is less than ten acres.

_ In 1985 the farmers home administration forced us to sell twenty acres; continues describing personal situation.

TAPE 210 SIDE A

030 FORSMAN: Continues describing situation.

066 KATE McCARTHY, PARKDALE, OREGON: Testifies opposition to HB 3661; I am a supporter of SB 100 and the present land use laws.

_ Submits written testimony, (EXHIBIT I).

205 MICKEY KILLINGSWORTH, PRESIDENT OF JEFFERSON COUNTY FARM BUREAU: Submits written testimony, (EXHIBIT J).

_ The Jefferson County Farm Bureau has been very active in land use planning; the system is working right now, we have decided that if this system was given a couple of years and was enforced by counties, maybe it would work.

_ Our main concerns are the Keene smoke nuisance case; the other thing is that we are in not in farming to get rich, we have elected and selected our way of life and we want to preserve agriculture.

333 LESLIE LEWIS, REPRESENTING SELF: Testifies in favor of HB 3661.

_ The major problem I've seen is with people that purchased their property before the land use laws changed; up until that point you could file a farm or forest management program and buy land below the minimum lot size.

440 LEWIS: On the Lot of Record, I feel that to put a lot of restrictions on it is not a good idea and a sunset provision will force a lot of

building that may not occur otherwise.

453 LESLIE MILLER, DAYTON, OREGON: I'm here to testify specifically against section 77 which would allow voluntary participation in the program of

historic preservation.

_ If you allow this the program in Yamhill County will disappear; basically there is fear of the ballot box.

TAPE 209, SIDE B

040 DONIS McARDLE, REALTOR: Presents overview of problems former clients have had with adjoining land.

_ Neither the county or the state notified my clients of changes in the zoning laws and what the options were.

_ Goal 3 should not be enacted.

109 MIKE BURNES, HISTORIC PRESERVATION LEAGUE OF OREGON: Testifies in opposition to HB 3661, submits written testimony, (EXHIBIT K).

_ Specifies opposition to section 77, voluntary participation.

164 T.C. FISHER, DALLAS, OREGON: Testifies in support of HB 3661, and presents overview of (EXHIBIT L).

_ This isn't simply a zoning regulation fight, but one about private property rights.

267 LAMONT DUNNAM, LAKE OSWEGO, OREGON: There isn't enough land within the Urban Growth Boundary; there are all kinds of reasons why people don't

sell.

_ We need secondary lands with affordable housing; HB 3661 is a good

start and it needs to be here; our present system locks up otherwise productive land.

332 DUNNAM: Some law should be enacted, not this one.

335 KENT HOWE, LANE COUNTY PLANNING: Submits letters for the record in support of HB 3661, (EXHIBIT M).

348 CHAIR CEASE: We are adjourned. (9:30 p.m.)

Transcribed by, Reviewed by,

Kimberly Burt Peter Green Committee Assistant Committee
Administrator

EXHIBIT LOG:

A - HB 3661: Written testimony submitted by Monroe, pp 2 B - HB 3661: Proposed amendment submitted by City of Portland, pp 1 C - HB 3661: Written testimony submitted by Coleman, pp 5 D - HB 3661: Written testimony submitted by Gardener, pp 4 E - HB 3661: Written testimony submitted by Blaine, pp 4 F - HB 3661: Informative material submitted by Martin, pp 12 G - HB 3661: Written testimony submitted by Polehn, pp 2 H - HB 3661: Proposed solution submitted by Liberty, pp 3 I - HB 3661: Written testimony submitted by McCarthy, pp 7 J - HB 3661: Written testimony submitted by Killingsworth, pp 5 K - HB 3661: Written testimony submitted by Burns, pp 6 L - HB 3661: Written testimony submitted by Fisher, pp 3 M - HB 3661: Written testimony submitted by Howe, pp 4 N - HB 3661: Written testimony submitted for the record by Washington County Farm Bureau, pp 16 O - HB 3661: Written testimony submitted for the record by Dillard, pp 2 P - HB 3661: Written testimony & Informative material submitted for the record by staff, pp 11