

House Committee on Environment and Energy

Measures Heard Informational meeting HB 2150 (PUB)

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

January 25, 1991Hearing Room E 1:30 p.m.Tapes 16 - 19

MEMBERS PRESENT:REP. PARKINSON, CHAIR REP. WHITTY, VICE-CHAIR REP.  
BURTON REP. COURTNEY REP. NAITO REP. NORRIS REP. REPINE REP. VAN LEEUWEN  
REP. WATT

MEMBER EXCUSED: All present

VISITING MEMBER:No visiting members

STAFF PRESENT: Kathryn VanNatta, Committee Administrator Andy  
Sloop, Committee Assistant

WITNESSES:Keith Bartholomew, 1000 Friends of Oregon Rus Nebon,  
Association of Oregon Counties Rick Bastasch, Water Resources Department  
Steve Bryant, League of Oregon Cities/City of Albany Greg Wolf, Land  
Conservation and Development Commission Dale Blanton, Land Conservation  
and Development Commission Leslie Lewis, Yamhill County Landowner Bill  
Moshofsky, Oregonians In Action Jan Childs, Oregon City Planning  
Directors Association Fred VanNatta, Oregon State Homebuilders  
Association Mike Propes, Polk County Planning Commission Richard  
Angstrom, Oregon Concrete and Aggregate Producers Association

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. r complete contents of the  
proceedings, please refer to the tapes.

TAPE 16, SIDE A

005 CHAIR PARKINSON: Calls meeting to order at 1:35 p.m. Notes that  
representatives Courtney and Burton will arrive late and are excused.

INFORMATIONAL MEETING - INTRODUCTION OF LAND-USE INTEREST GROUPS

15KEITH BARTHOLOMEW, 1000 FRIENDS OF OREGON: Gives overview of  
organization mission and legislative agenda. (EXHIBIT A)

>Need better coordination of development and infrastructure.

>1000 Friends working with various groups to draft a compromise  
Secondary Lands measure. Worked with interim Committee on Forest  
Products Policy to develop government assistance for family needs so  
that "mom and pop" land owners don't have to sell land or cut trees to  
make ends meet.

127 REP. WHITTY: I'm very happy to see you support the light rail. Are you aware that some environmental groups might not support that project as much as your group?

138 BARTHOLOMEW: There are some legitimate concerns, but our primary objective is to realize improvements to the mass transit system.

149 REP. WHITTY: The final line of your mission statement says you are seeking more compact and livable cities. To me, those two words, or ideas, are total opposites.

155 BARTHOLOMEW: Portland is actually less densely populated and developed than Los Angeles. The reason Portland isn't sprawling like L.A. is that it doesn't have the numbers. It's only a matter of time. Compact does not mean less livable. There are compact cities that are very livable.

174 REP. WHITTY: Privacy is very important to me. More compact cities are less private, so to me, compact is not necessarily more livable.

186 CHAIR PARKINSON: It looks like it is much more narrow than the state planning goals. There aren't things in it like energy conservation, transportation, economic development or recreational needs. Is your mission statement the same as it was in 1975?

190 BARTHOLOMEW: No. It's the result of recent strategic planning. In an attempt to make it very concise, we chose the term "livability" to include a broad range of specifics.

198 CHAIR PARKINSON: It seems that maybe you are not in the mainstream with most of the state. Perhaps you should consider modernizing or refining your mission statement.

200 REP. WATT: There are two terms you used in your testimony that I'm not familiar with -- Hobby Farms and Martini Farms.

208 BARTHOLOMEW: More and more farmers are being listed every year in the Department of Commerce agriculture census and most are grossing less than \$2,500 a year. Most farmers say the only way to make a living is to gross at least \$100,000 a year. Someone who is grossing \$2,500 is not making a living farming; he is obviously farming as a hobby. Martini farming is another euphemism for hobby farm.

238 REP. NORRIS: I think we're looking at a classic chicken and egg question. To me, it's near insoluble how we get money for infrastructure prior to development, and how we insure development after paying for infrastructure.

260 BARTHOLOMEW: You've touched on a critical issue. There are two things I would say in response: 1.) Infrastructure and development need to come together and be done hand-in-hand. In many cases, however, development has been preceding infrastructure. Florida requires construction and infrastructure development to be concurrent; 2.) The 6 percent cap built into Oregon's property tax system has prevented local governments from receiving additional revenue as new development has occurred within in their jurisdictions. So the problem is that the pie never gets any bigger but the distribution shifts around. Consequently, while local governments have increased demands for servicing new development, they don't have increased revenue to provide

those services. This is a problem the Metropolitan Homebuilders have been looking at, and we support their recommendation.

269 RUSS NEBON, ASSOCIATION OF OREGON COUNTIES: Continues introduction of association as a land-use interest group.

>Most planning staffs throughout the state devote 75 percent or more of their time to the permitting process, and the rest to periodic review. Consequently, not much is left over for anything else.

>Counties hope to get guidance from the Legislature on Secondary Lands issues. They have received very little policy guidance in this area to date. Counties generally feel that people on low-quality lands are subjected to more regulation than necessary.

>Revenue from the permitting process barely covers permitting administration costs. There is very little left for bonafide and constructive planning at the local level after paying administrative expenses.

>The current periodic review process tends to force localities to pursue all comprehensive plan changes during the 180-day review process. AOC hopes to work with this committee to restructure this process.

382 REP. NORRIS: Are most zoning requirements that you indicated are costly to county and local governments coming out of the Legislature or out of LCDC based on existing statutes?

390 NEBON: About 30 percent comes out of the Legislature and 70 percent comes from LCDC.

403 REP. NORRIS: Have these requirements in effect been mandates without money?

410 NEBON: Yes, to some extent. We feel there are mandates that have been underfunded.

TAPE 17, SIDE A

RICK BASTASCH, RESOURCE MANAGEMENT DIVISION, WATER RESOURCE DEPARTMENT: Introduces division and discusses expected role with respect to issues the House Environment and Energy Committee will be addressing. (EXHIBIT B)

48REP. WHITTY: There's an attempt every session, and I know there will be this session, to incorporate public and private water rights with respect to streams and rivers in the state. Where does your department stand on that issue?

53BASTASCH: I don't know that our department has sponsored any legislation to address that issue directly. We are required to protect existing water rights.

71STEVE BRYANT, LEAGUE OF OREGON CITIES/CITY OF ALBANY: Introduces self. Gives background on self and evolution of Oregon's land-use planning system. (EXHIBIT C)

>Oregonians often fail to acknowledge that despite weaknesses of our land-use system, it continues to be hailed as a model for the nation. It is particularly unique in the way it coordinates local and state

agencies.

>There is much more certainty in our program than anywhere else in state.

>Land-use issues are settled more quickly in Oregon than anywhere else in the country.

>At least 70 percent of constraints localities deal with have come from the Legislature, and most have come without funding.

>The speed and certainty of Oregon's planning system is a strong drawing card to businesses shopping for places to locate.

136 CHAIR PARKINSON: In terms of certainty and predictability, you're coming from a city's perspective, aren't you?

139 BRYANT: Yes. Continues praising system.

>Oregon has the Land Use Board of Appeals, which is dedicated to land-use appeals, so appeals don't get bogged down in criminal court.

>Oregon's system is not perfect, but it must be protected.

>Densities must be increased in urban areas to contain urban growth.

>Oregon gained 189,000 new residents between 1980 and 1989, and 90 percent of that growth occurred within urban growth boundaries. That says the state's planning system is working.

>To date, containment of growth within urban growth boundaries has not inflated housing prices. This can only continue with minor adjustments to urban growth boundaries to accommodate growth.

>Oregon's planning system has eliminated most discretionary standards that left room for "wish-washy" planning decisions.

>To succeed, localities need technical assistance from the state.

265 REP. VAN LEEUWEN: LCDC has told us that half of its budget has gone to local governments.

272 BRYANT: Most of that has been to help localities comply with regulations. Localities need help developing innovations. Continues with concerns.

>The state needs to reduce mandates without funding.

>State, county and local planners need to insure urban growth boundaries aren't surrounded by spotty development that will prevent orderly expansion.

>Local planners need direction on what constitutes a land-use decision and, therefore, what is appealable.

>Annexation reform.

323 CHAIR PARKINSON: Opens public hearing on HB 2150

PUBLIC HEARING - HB 2150

GREG WOLF, LAND CONSERVATION AND DEVELOPMENT COMMISSION: Explains need for the bill and what it would do.

>The periodic review process is very complex and cumbersome.

>LCDC convened a consensus group -- consisting of two state agency representatives, two city planners, two county planners, a local hearings officer, interest group representatives, a city attorney, a concrete industry attorney and a private citizen attorney -- during the interim to develop a reform proposal.

>"We believe this represents major reform in the improvement of the periodic review process."

>The existing process is very process heavy and substance light; we're not getting the kind of product out of the review process that we think we should be in terms of improving local plans and helping cities and counties adjust to new conditions.

>The review standard in the proposed bill is basically whether a local plan is still working to achieve the state goals.

TAPE 16, SIDE A

15DALE BLANTON, LAND CONSERVATION AND DEVELOPMENT COMMISSION: Reviews Periodic Review Process (EXHIBIT D)

>In 1979, LCDC began looking at a post-acknowledgement process to insure local plans remain consistent with state planning goals.

>In 1981, the state established a plan-amendment process.

>Periodic review legislation was introduced in 1981, but not implemented by LCDC until 1985. This process was revamped before it was ever implemented.

>The current review process is extremely complex, technical and impractical.

105 BLANTON: LCDC held workshops throughout the state during the 1989 Legislature to determine what isn't working and how property owners would design the system if they could start again from scratch.

112 CHAIR PARKINSON: Do you have a time line for implementing this bill?

120 WOLF: We're trying leave some flexibility so that if the time frames we are proposing aren't working, we can adjust them by rule instead of coming back and changing the statutes.

130 BLANTON: Continues description of proposed two-phase process.

>Gets community together to determine what local issues need to be addressed during the review process. The 180 days allowed under current system for detailed evaluation of local comprehensive plans and submission of proposed changes is unrealistic. However, 180 days probably is realistic amount of time for local planners to put together work programs.

155 REP. WHITTY: Can a local government, in effect, change zoning by restricting air quality, water quality, etc.?

168 BLANTON: Those actions should be subject to the review process and should be submitted to us for review prior to changes.

182 WOLF: You can't have ballot-box planning in this state. If the outcome of a local election violates statewide planning goals, the change could not be implemented.

197 REP. BURTON: Would you explain the impact of the statement at the beginning of Section 3.

205 BLANTON: This language expresses the importance of periodic review.

225 REP. BURTON: Does it remove flexibility in the plan.

230 BLANTON: We believe this bill is substantially more flexible than the current periodic review process.

241 REP. VAN LEEUWEN: You're saying this is totally new language from sections 2-7?

249 BLANTON: That's essentially correct. Section 8 is supposed to set forth how this new process would come into play. Sections 9 on are the conforming amendments. Continues describing review process.

>The existing review process doesn't have a well-defined mechanism for agencies and other interests to exchange information and concerns, and to refine their reform objectives.

>Consensus group is proposing a State Assistance Team to provide technical assistance, to state agencies and local planners, during the review process.

298 REP. BURTON: On section 5, is there currently anything like this State Assistance Team in place now and do you work on an intergovernmental-basis with state agencies, or is that all going to have to be established if this adopted?

303 BLANTON: This is not in place today.

309 REP. BURTON: The statute here says the Department shall establish an assistance team made up of other agencies. What is to compel the other agencies to do that?

311 WOLF: The intent here is to establish the opportunity. We would be establishing the team, and that would give state agencies the opportunity to participate. We're not in a position to mandate participation. However, it is our intent to make it clear that this is the opportunity and not down the road. We're trying to focus the participation at this point.

360 BLANTON: Continues discussion of local feedback about proposed changes.

>Current process makes it difficult for localities to see big planning picture and to make local amendments as needed.

394 CHAIR PARKINSON: Can't local governments do what you're proposing

through plan amendments? This wouldn't be anything new, would it?

400 BLANTON: Local governments currently wait to do most changes until periodic review. They tend to get so bogged down demonstrating compliance with state goals that they can't focus on improvements.

TAPE 17, SIDE B

000 BLANTON: Continues description of proposed process.

>Current law leaves the periodic review process open until it is 100 percent completed. That can take years. The proposed process would allow priority review items to be approved prior to full completion of process.

30WOLF: There's general agreement on this concept, it's just a matter of fine tuning.

42CHAIR PARKINSON: Calls for 10 minute recess at 3 p.m.

43CHAIR PARKINSON: Reconvenes meeting at 3:11 p.m.

44LESLIE LEWIS, YAMHILL COUNTY LANDOWNER AND COUNTY PLANNING COMMISSIONER: Voices concerns about proposed changes. >Uncomfortable relying on LCDC to decide when counties would go through periodic review. This is another club LCDC could hold over counties' heads.

>Opposed to sanctions in Section 4 regarding failure to operate within time tables. This would undermine the ideal of local control.

100 >Existing agricultural zoning seems to be working in Polk County, so why should it be evaluated under periodic review?

>The review process has been time-consuming and costly to Polk County.

>The time table and review requirements under the current process have forced Polk County to work under the gun and to forgo more important work.

>The state should be streamlining the land-use planning process in light of Measure 5.

165 CHAIR PARKINSON: Requests recommendations for streamlining the review process and recommends that Lewis consult with the Association of Oregon Counties on this matter.

192 REP. NORRIS: I think we just heard from a rather upset lady who is ticked off at the system, and I appreciate her comments.

200 BILL MOSHOFSKY, OREGONIANS IN ACTION: Outlines OIA's mission. Acknowledges that reform may have merit. Cautions that reforming all areas of the process may cause problems. Refers specifically to Section 2 of the bill.

>The state's planning goals are intended to be general guidelines, not statutory mandates. Because they are general, however, reasonable minds can differ on how they are intended to be applied.

>There is great temptation to put off dealing with planning issues until periodic review, and if you try to do everything, you do nothing well.

>OIA supports concept that cities and counties should incorporate changes in statutes and goals as they review how well their respective comprehensive plans are working for their communities.

>There is a gap in the current system (ORS 197.620) because a decision to not adopt legislative amendments or new land-use regulation is not appealable. That means that if a county or city should or needs to change its comprehensive plan in response to local changes and doesn't, it can't appeal. The system should be changed so that plans can be updated as needed, instead of waiting until periodic review.

>The system isn't broken, don't fix it. There isn't a local groundswell for the proposed changes, so why create a problem.

>It may be desirable to limit the scope of the review process to big ticket items of statewide concern. This, alone, could significantly streamline the process.

>OIA has not sought revisions to the periodic review process, even though OIA thinks the system has problems.

>The state's call for citizen involvement is really pretty meaningless because LCDC has it's own agenda.

>The planning process is so complex that ordinary citizens can't get involved in it.

>Under the proposed system, sanctions that would be imposed against jurisdictions that fail to comply may be too tough.

>Under the proposed system, LCDC would come up with rules that would further guide how the new process would operate, so until those rules have been hammered out, no one really knows what the new process is going to be about.

382 REP. BURTON: You said LCDC could charge for these State Technical Assistance teams to help local and county planners.

385 MOSHOFSKY: No. If a county or city didn't follow the review schedule, then LCDC could send state people to complete the local or county periodic review and then charge for it. That's under Section 4 (d).

TAPE 18, SIDE A

JAN CHILDS, OREGON CITY PLANNING DIRECTORS ASSOCIATION: Testifies in favor of the bill.

>The current process is frustrating to local officials, and the Association is pleased that DLCD has initiated reform. In fact, the Association identified periodic review reform as a top priority on its 1991 legislative agenda.

>Portland's periodic review will take longer to complete than the city's comprehensive plan took to draft.

>This bill would retain two elements of the existing review process -- evaluation of the cumulative effects of amendments to existing plans and analysis of local changes that occur after a plan is adopted.



60>The current process requires that all new administrative rules, legislation, state inventories, and new state programs be incorporated into the review process. There aren't adequate staff resources at the local and county levels to meet these requirements. The proposal would allow localities to address these kinds of administrative rules independent of the periodic review process.

>Need separate amendment process.

>Current system is very much top down, so localities tend to address what's handed down from DLCD even though local officials may know that other issues should be addressed. The proposal recommends a cooperative effort between state and local planners.

101 >State agency access and participation in the review process has been very limited. The cooperative approach proposed is a "very, very big step forward" that should "enable periodic review to do what it was intended to do in the first place."

>Periodic Review is kind of like a report to the shareholders, and we think that's very important.

133 REP. NORRIS: From the perspective of a city planner, what is the end product you would hope to wind up with after periodic review.

139 CHILDS: A real understanding of how the changes will impact overall plans. Also to review initial plan assumptions to insure they continue to be valid in light of external changes at the local level.

166 REP. NORRIS: About how many person days would it require for Eugene to go through the existing process from start to finish.

170 CHILDS: Just less than two years.

193 FRED VAN NATTA, OREGON STATE HOMEBUILDERS ASSOCIATION: Expresses general support of the proposed changes. Submits proposed amendments to committee and DLCD staff. Voices some concerns.

>If process is going to work, somebody has got to tell local governments to perform. There's got to be some kind of a lever to make this happen.

>Under current system, the state tends to deal with local non-compliance by taking enforcement action against development applicants. Applicants should be kept out of controversies between governments.

260 >Recommends amendments.

-Section 4 (1)(a): Recommends that local and county governments that have failed to demonstrate adequate progress toward completion of periodic review be allowed to submit comprehensive plan or land-use amendments they approve as part of specific applications. This would prevent developers from being penalized for the failure of a local government to comply with periodic review requirements.

-Section 4 (1)(b): Recommends deletion because state goals are too general and vague to be applied directly to development proposals. Rather, goals should be applied in designing and amending comprehensive plans and zoning, and plans and zoning should be applied to development proposals.

-Section 10: Recommends leaving at least a one-year lag period between adoption and local implementation of new or revised land-use goals, guidelines and regulations.

346 CHAIR PARKINSON: Planners seem to love the process, and it appears to work for them. I'm getting the impression that the process is working in urban areas but not at all in rural areas. Has there been any discussion of creating a different review process in rural areas?

371 VAN NATTA: There are clearly different needs in rapidly growing areas than in cities that haven't changed for years. Growth and change should be the underpinnings for periodic review, not urban or rural. Current statutes pertaining to periodic review outline a review schedule in years. The proposed measure would allow local and county planners to update plans when they get around to it.

392 MIKE PROPES, POLK COUNTY COMMISSIONER: Expresses concerns about the bill.

>Given the time and effort required to complete periodic review, I'm not sure counties can afford to give LCDC the authority to determine when localities shall go through this process.

>Polk County just completed its periodic review and found it of little value to the county. All HB 2150 seems to do is add more restrictions to an already tight system.

>Recommends plan amendment process to accommodate needed changes, from the bottom up, in timely fashion.

>Polk County was more concerned about completing the review process on deadline than in creating a good product.

>Citizen input seems to be stressed but doesn't seem to make any difference. Citizens get frustrated and mad when they speak up and local officials tell them that what they want isn't consistent with state goals. We're getting the input, but if we ever do what citizens ask for, we're forced to take it out.

TAPE 19, SIDE A

65REP. WHITTY: Maybe citizens in Polk County are asking for things that other people throughout the state wouldn't want.

75PROPES: Yes, that's probably true. But we need to figure out a way to work within our system, or figure out how to reform the system so we can work within it.

103 REP. BURTON: What I hear you saying is that you would like to eliminate periodic review altogether.

115 PROPES: I don't see this as improving the situation significantly. This will speed up the process, but the problem is that we at the local level don't want the process. Periodic review might receive local support in rural areas if it was limited to statewide issues.

129 REP. BURTON: If we're going to have a work session on this, I'd like DLCD to respond to that suggestion.

145 RICHARD ANGSTROM, OREGON CONCRETE AND AGGREGATE PRODUCERS ASSOCIATION: Testifies in support of the bill.

>The concrete industry has been left out of the planning process. Without periodic review, the industry wouldn't have a voice in the process.

>Without a voice, the industry will not be able to site much-needed new concrete and aggregate mining operations.

160 CHAIR PARKINSON: Why can't you accomplish what you want through plan amendments?

164 ANGSTROM: It is potentially possible to do it that way with new ordinances, but the problems that we encounter are so thoroughly entrenched in comprehensive plans that any amendments would have to be extremely comprehensive.

168 CHAIR PARKINSON: I'm not sure that's valid because a plan amendment would change the comprehensive plan of a county, which periodic review does too, so your problem could be addressed through plan amendment, couldn't it?

176 ANGSTROM: We've got a problem that needs to be corrected, and we don't care how it's done. Planners have to do so much detail work associated with periodic review that the process just bogs down. What we're supporting here is simplification of the process so planners can get on with other work.

>We just want to get the process done so we can back to crushing gravel.

208 REP. NORRIS: You've got a natural ally in 1000 Friends because part of their mission is to improve infrastructure, which requires a lot of aggregate.

217 CHAIR PARKINSON: Adjourns meeting at 4:21 p.m.

Submitted by:      Reviewed by:

Andy Sloop            Kathryn VanNatta Committee Assistant      Committee  
Administrator

EXHIBIT LOG:

A            -            1000 Friends of Oregon Information Packet presented by Keith Bartholomew - 9 pages. B-            Letter of Introduction presented by Rick Bastasch, State Water Resources Department - 2 pages.  
C            -"Blazing New Planning Trails In Oregon" presented by Steve Bryan, League of Oregon Cities - 4 pages. D -Periodic Review Process Flowchart presented by Dale Blanton, State Department of Land Conservation and Development - 1 page.