

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.

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

February 13, 1991 Hearing Room E 1:30
p.m.

Tapes 39 - 40

MEMBERS PRESENT: Rep. Parkinson, Chair Rep. Whitty, Vice-Chair Rep. Burton Rep. Courtney Rep. Naito Rep. Norris Rep. Repine Rep. Van Leeuwen Rep. Watt

STAFF PRESENT: Kathryn VanNatta, Committee Administrator Annetta Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2150 PH & WS Introduction of Measures

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TAPE 39, SIDE A

000 CHAIR PARKINSON calls the meeting to order at 1:35 p.m. and opens the public hearing on HB 2150, closes the public hearing and opens the work session on HB 2150.

HB 2150 - CHANGES PERIODIC REVIEW PROCEDURES FOR LAND USE PLANNING.
Witnesses: Greg Wolf, Department of Land Conservation and Development Dale Blanton, Department of Land Conservation and Development Jon Chandler, Common Ground Bruce Anderson, Oregon State Home Builders Association Roberta Jortner, Water Resources Department Jan Childs, City Planning Directors, League of Oregon Cities and City of Eugene Russ Nebon, Association of Oregon Counties Phillip Fell, League of Oregon Cities Fred VanNatta, Oregon Home Builders Association Richard Angstrom, Oregon Concrete and Aggregate Producers Association Don Miner, Oregon Manufactured Housing Association

019 GREG WOLF, Department of Land Conservation and Development: Dale Blanton will take the committee through the bill. We met again with the consensus group to go over some items that were left outstanding. The committee has proposed amendments (EXHIBIT A). We have additional

amendments dealing with sections on pages 4 and 5 (EXHIBIT B). We worked on this with the home builders. The second item in the additional amendments deals with a matter left out of the first bill. The last one on the list is suggested by Mr. Moshofsky suggesting we delete the last line; we concur in that amendment to ORS 197.620(1). I request we wait for Dale Blanton to go through the proposed amendment and hear from some of the interest groups.

087 MR. WOLF: There was a lot of discussion about the work program in Section 4. The committee believed we ought to have an appeal opportunity for the work program. We tried to find a way to have the work program be a decision that the commission would make and not be subject to legal scrutiny. We found we need to allow an opportunity for appeal. Section 4 is an attempt to describe an appeal opportunity for the work program.

091 CHAIR PARKINSON: This is a good point to explain what sanctions are possible.

092 MR. WOLF: Under the bill, if a local government did not comply with completing a work program on time, the sanctions that could be applied would be requiring local government to apply the goals to land use decisions. This relates to (a) of the additional amendments. The change is to make sure the department and the commission does not say they need to apply all the goals to land use decisions as a punishment, but would only need to apply the portions of the goals which impact on this subject matter in question.

100 REP. VANLEEUEWEN: Give an example that would apply in Sweet Home.

MR. WOLF: As Sweet Home goes through their comprehensive plan, they will determine what they need for manufactured housing and if they did not plan for their needs, then they would have to do that through periodic review. Or it could be that their industrial land had filled up. In that case one of their task would be to identify more industrial land to meet their needs.

125 MR. WOLF: The other sanctions listed, in addition to the one I mentioned, would be requiring local government to forfeit a portion of the grant money we had given them to conduct their review (HB 2150, page 4 (b)). Subsection (c) would be that the department could complete the work the jurisdiction had not done or had decided not to do. We could require local government to pay us for the completion of that work. This would be a circumstance where the local government refused to do the work to bring their plan up to date. We could complete their work for them. In this case the first opportunity would be to forfeit the grant money.

149 CHAIR PARKINSON: How would you force them to pay for the costs?

148 MR. WOLF: I believe there is a procedure in the statute now for the withholding of moneys from local government when they do not comply with the law.

152 REP. NORRIS: Is there much history on this kind of thing occurring?

155 MR. WOLF: We have been reluctant to impose those kinds of sanctions. We want to make sure we do everything we possibly can to get the work done without sanctions. I think there may have been some instances of that, but not in the last two and one-half years I have

been at the department.

167 MR. BLANTON: It has been done. The last I recall was when a local government had not done what was required to gain acknowledgement of its plan. It was a withhold until they completed the work. Once the work was done, the money was released.

181 CHAIR PARKINSON: What is an enforcement order?

182 MR. BLANTON: Currently the statute contains a section for enforcement of the state land use program. If a local government does certain things or fails to do certain things or engages in a pattern or practice of decision making that violates its plan, those could result in an enforcement order. Once that is identified there is a requirement to conduct what is called a contested case hearing, either by the commission or the commission can appoint a hearings officer. Sanctions are outlined in the statute. There is a similar provision in the current enforcement order statute that says the commission can only impose those sanctions where they find the sanctions are necessary to resolve a goal violation that is occurring.

205 MR. WOLF: We do have an enforcement order in progress in Crook County where they failed to complete their work as a part of periodic review on the mineral and aggregate portion of their plan. They simply did not complete the work required under Goal 5. The mineral and aggregate operators were finding it difficult to site their facilities and extraction sites and as a result we do have an enforcement order in process. A hearings officer has been hired by the department to conduct the hearings for the county.

203 REP. VANLEEUEWEN: Are you doing away with the contested case hearing and going to an appeal to LUBA in the amendments (EXHIBIT B)?

221 MR. BLANTON: In the -1 amendments, page 4, line 8 says the department shall schedule a contested case hearing. That is one of the changes that have been made. It used to say show cause hearing in the initial draft of the bill. That language is carried over in line 24.

244 REP. VANLEEUEWEN: Why do we have the contested case hearing in one and LUBA in the other? Do contested cases go to court or to LUBA?

248 MR. BLANTON: The contested case hearing that the commission conducts would be appealable to the Court of Appeals under the Administrative Procedures Act.

256 REP. VANLEEUEWEN: What is the difference between the language on pages 4 and 7?

258 MR. BLANTON: That is a section where state agency actions, other agencies besides DLCD that have state agency coordination programs, on land use decisions are tested against certain standards. Those would be appealable to LUBA. Section 9 on page 7 spells out the standards for agencies and those actions can be appealed to LUBA. We are adding a new subsection (c) which recognizes if a local government amends its plan under periodic review, the agency would be tested for compatibility with that amended plan that was done under periodic review rather than a plan acknowledged under a different process. We are trying to get the notion in here what that the agency has to be compatible with. It can be either the plan that was initially acknowledged, the plan that was amended through the plan amendment process or the plan that was

acknowledged as part of periodic review. We didn't want to confine an agency to the initial plan if the plan had been amended through one of the other two mechanisms.

288 REP. BURTON: Why did we change the show cause hearing to a contested case hearing?

291 MR. BLANTON: In talking with both land use attorneys and the attorney general's office, they believed that show cause hearings have certain meanings as part of either a circuit court temporary restraining order or injunction kind of process that are not familiar types of proceedings under the Administrative Procedures Act and they felt by referencing contested case hearings under the state administrative procedures act, which is the act governing state agencies, it would be clearer what kind of due process requirements, notice and other obligations the agency would follow.

287 REP. BURTON: Section 4 is where local government fails to act, rather than were they have taken an action which is then contested. If we are certain there is a procedural issue that applies to the Administrative Procedures Act, that is fine, but it seems odd.

320 MR. BLANTON: I think the attorneys felt that the use of the words good cause in line 7, as a predecessor to the type of hearing, got the notion of local government either showing they had cause for the delay or not. That would be the standard that would be looked at, but it would be a contested case.

330 REP. BURTON: I am hoping this doesn't create a problem for local jurisdictions in meeting the obligations of the hearings. I wonder what the cost is to a local jurisdiction coming into a contested case hearing compared to a show cause hearing.

337 MR. WOLF: Cities and counties were represented on the group that ask for the amendments.

342 CHAIR PARKINSON: On line 24, the words "if requested by any person" could mean anyone who filed a contested case hearing.

351 MR. WOLF: The idea was that if no one requested a contested case hearing, the director would have the discretion to not have to call one. In the original bill it was automatic; the director had an obligation to schedule one if they missed their date for submittal. This backs up and says someone has to request it before it is triggered.

363 REP. NORRIS: Is there any restriction on standing or does it truly mean "any person?"

367 MR. BLANTON: The consensus group believed that leaving the ability to ask for that hearing open to any person was adequate in that those people who were involved with periodic review ought to have an opportunity for a hearing if the periodic review is late. There wasn't a desire on local government or others to limit the ability to have that hearing. People were comfortable with the limit on what was being looked at rather than who could look at it. I don't think the people at the table were concerned about requests coming from someone who had no interest at all.

409 DALE BLANTON: There is a change at the top of page 5 imposing some

limits on the commission's ability to impose sanctions. That is the language in the additional amendments (EXHIBIT B). The change at lines 14-16 is a new subsection 4 that makes it clear any commission action under one of the sanctions or a contested case hearing would be subject to judicial review. There is a link to ORS 197.650 which is the part of the LCDC statute that explains what actions are appealable.

433 REP. BURTON: In line 10, are interim measures and standards defined in rule or statute?

439 MR. BLANTON: They are not defined in statute. These standards would be based on LCDC goals or rules that have been adopted and they would be directed specifically at resolving those goal and rule issues in order to make sure those interim actions didn't cause further violation of the goals. I don't believe it is necessary to put those in statute.

The next change is at lines 17 and 18 on page 5. We have met with state agencies and they met with the consensus group. We have recognized the existing certified state agency coordination programs. The new language says "in addition to coordination between state agencies and local government established in certified state agency coordination programs the department may establish one or more state assistance teams." We wanted to give some recognition to the process those agencies had already gone through in establishing their coordination programs and the state assistance teams were in addition to the coordination already reflected in those programs.

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024 MR. BLANTON: At the bottom of page 5 at lines 29 and 30, the language in the prior draft was unclear to a number of people. These are the places when the commission could modify a work program. The understanding in (a) was that if another local government periodic review came up subsequent to the first jurisdiction, the commission could go back and amend that first jurisdiction's review to require an enhanced level of coordination. The words "another local government's periodic review" have replaced "another review" to make it clear that it is another local government's periodic review.

036 The change on page 6 at lines 14-16 is a similar change. It makes it clear that a commission action under this section is subject to judicial review.

039 CHAIR PARKINSON: In the HB 2150-1 amendments, page 6, Section 6(2), please comment on "The commission shall adopt rules governing standing, ...notice, ..., etc." Why is the standing issue not in the bill, or does it need to be?

048 MR. BLANTON: This section is intended to give enough delegation to the commission that when they put together the specifics of how this process works, they would be authorization to look at those questions. One of the issues we have dealt with under the current periodic review process is the commission was unable to make some modifications to the procedures because all of the procedures were in statute. We tried to find the proper balance between what had to be in statute to make sure there were proper limits on both the commission and the local government, but still give enough authority to LCDC to make it work. This section is intended to delegate the things that are not in the statutes to the commission.

062 CHAIR PARKINSON: Does that conflict with Section 4 where it says if requested by any person?

065 MR. BLANTON: There is a limit on what the commission can do relative to standing. The clear statute would govern over anything that the commission could do. On that particular point the commission would be barred from imposing a more stringent standing requirement than that statute would allow them. In delegating to the commission some authority, other parts of the bill make it clear what they can do. It is not necessarily a conflict, but specific parts of this bill would limit the commission in some ways, and in other ways where the questions aren't clear the commission would have authority to act.

108 MR. WOLF: The intent is to have some parameters spelled out in the statute, Section 4, to guide the process. The commission could make up the difference with their own rule writing. We need to be able to put some of the procedural steps in there. The intent was to take some of the details in the statute in the previous review process and give the commission some flexibility to adopt rules and change them if they are not working.

124 REP. BURTON: You adopt rules under the APA. Is standing defined in statute or how is standing applied?

135 MR. BLANTON: In some statutes it is very specific. In this case the standing to participate on work program review or task review is not spelled out in statute. That would be fairly broadly delegated to the commission. The sense of the group that put this together was that the basic provisions to participate locally, raise issues locally before you raise them at LCDC, were important notions to have as part of the rules. It gets more cumbersome when try to write them into legislation. The working group felt very strongly that some of those details should be left to rule writing.

148 REP. BURTON: As we establish legislative intent, if we are leaving it broadly to the commission to adopt rules, they will do it under the APA requirements, but in the case of standing, which is not defined for these issues, is the intent of the commission to adopt rules which would allow local jurisdiction to have the broadest possible participation in those questions of the work program. Is that the intent that is brought to us and was it the consensus of the work group that is what they were doing?

160 MR. WOLF: I believe that is correct. The way the process is structured in the bill in terms of setting up the work program with the local jurisdiction and providing opportunity for everyone to participate in how the work program is formed, is the opportunity for the broad participation. Once the decision is made on what is going to be in the work program, the ability to raise a new issue is limited after that. That is a procedural thing built in here in how the process plays out. There are only very specific instances when you can raise a new issue after the work program has been developed.

174 REP. BURTON: There is an intent to establish standing for cause on these issues once you have reached the point of moving forward with the work plan that has been adopted. Is that the intent here?

180 MR. WOLF: That is correct.

186 MR. BLANTON: The next change from the previous version is a series of changes in Section 9. This was in the conforming amendments portion of the bill. Inadvertently we had, in a combination of changes, mandated state agencies to comply or act compatibly with the acknowledged plan even if they had a new mandate from the Legislature and the local government plan had not gone through periodic review. That was unintentional. We recreated an exception for those agencies that existed in the prior law. We are now adding back in that the agencies have to act compatibly with the plans unless the agency has a new or amended program that is mandated by state statute (language on page 8, lines 7-9) or federal law, that new program is consistent with the goals and that new program has objectives that cannot be achieved in a manner consistent with the plan or land use regulations, that agency may not be required to act compatibly with the acknowledged plan because that plan has not gone through periodic review yet. Once the plan is through periodic review, the agency would be acting compatibly with that plan.

223 The final change in the HB 2150-1 is on page 10. Fred VanNatta was concerned that if the commission adopted a new goal, that removing, in the conforming amendment, the language that related to periodic review, the commission could establish the effective date immediately on the goals. We worked with the consensus group who agreed that even though compliance with that new goal would occur outside periodic review there still should be a minimum of one year for that goal to come into effect unless there was a compelling reason for it to come into effect earlier. We have reinstated what is in current statute which is when the commission establishes the effective date it shall be at least one year unless they have a compelling reason.

241 There are some technical changes at the bottom of page 10 making it clear that commission actions under this act are subject to judicial review.

A memo from Greg Wolf and Dale Blanton, Department of Land Conservation, explaining HB 215 0 section-by-section is hereby made a part of these minutes (EXHIBIT C).

The Legislative Fiscal Analysis and Revenue Impact Analysis are hereby made a part of these minutes (EXHIBIT D).

363 JON CHANDLER, Common Ground: We were not participants in the initial work group on this bill, but participated at the tail end after it had been drafted. We are pleased with it. Periodic review is a fact of life for the development industry in that it allows local governments and LCDC and make changes in comprehensive plans. This bill will allow a more streamlined, simplified, easier-on-all-sides process to go forward. It is important for development to know what the rules are in each jurisdiction. It is important for cities and counties to know what is expected of them and it is important for the state to be able to keep an eye on the entire process. This is good attempt to make it simpler, more direct and to allow input at the levels where it should be. It makes the process friendlier and shows what they are talking about.

From the development standpoint, we have a significant degree of interest in the process. It think this new process in HB 2150, as amended, will be very good and we hope it comes out of this committee with a do pass recommendation.

Fred VanNatta of the Oregon State Home Builders Association expressed concern previously on pages 4 and 5 in lines 13-16. The current

amendment (EXHIBIT B) is unclear whether all or portions modifies one or more or whether it is all goals. Our concern and Mr. VanNatta's concern initially was that requiring the use of the goals to guide land use decisions was a very cumbersome process. In the sanctions part of the bill we were trying to say when a land use decision came up, if the jurisdiction was not in compliance otherwise, then the jurisdiction should be required to apply those portions of the goals that apply to the decision. I raise the question of whether that is what this language says. The intent of the group was that "all or portions of the goals as applicable."

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017 BRUCE ANDERSON, Assistant Director for Government Affairs, Oregon State Home Builders: To follow up on what Mr. Chandler was saying, we would support the bill as amended, although we did have the one concern. I think it would help tighten things up if we said something like "only those goals or portions of goals as appropriate" to land use decisions.

026 REP. NAITO: Which language do you prefer, "as applicable" or "as appropriate?"

030 MR. CHANDLER: I will stick with applicable.

038 CHAIR PARKINSON: I would like to see us adopt the -1 amendments and go back to the drawing board and have the participants get together with the department and see if they could come up with language to meet everyone's goals and go from there.

049 ROBERTA JORTNER, Water Resources Department: We were one of the representatives on the working committee with the department, cities, counties and interest groups. We have a brief memo in support of HB 2150 (EXHIBIT E). The process is important and is needed for changing conditions, would allow local government to look at issues, and would allow for agency participation and assistance in the process. This targeted approach would ensure that local and state dollars are spent efficiently on issues of real concern.

056 REP. NORRIS: There is legislation that would tie assurance of water availability to development plans. Do you feel this fits with that?

062 MS. JORTNER: They would not conflict.

076 REP. VANLEEUEWEN: This was one of the bills identified by the task force that was set up by local governments as one of the things they need to simplify mandates we have given them.

075 JAN CHILDS, representing Oregon City Planning Directors Association, League of Oregon Cities and the City of Eugene: I was here to testify in favor of the original bill and heard the comments that were made as part of the testimony related to some things our working group had not thought of. The working group got together again after the hearing and made the changes which the committee has today. Our intent was, in addition to our overall objectives of streamlining and simplifying, to also add more certainty. We feel the amendments meet that objective. Once a revised periodic review process is adopted, we will need to put a lot of time and effort into explaining it in terms that the public and the citizens can understand, but I think the amendments continue efforts we have been working on for over six months.

098 RUSS NEBON, Association of Counties: We have been part of the working group. AOC has adopted a platform of developing a workable process. We feel this bill gets us there and we appreciate all the efforts and hope the committee passes it out. We have no objection to the amendments (EXHIBIT A). The additional amendment to ORS 197.620 has a broader impact, I think, than the people who suggested it recognize. The reason the sentence is in there is the counties, and I would assume cities, are often petitioned through the planning commission or city council as a board to consider, for example, new goal exceptions out of EFU zones or to consider other kinds of legislative amendments to their plans that may not have anything to do with new LCDC rules or with periodic review. Under the concept of local control, we have an open door for those proposals to be considered, but when the board of county commissioners and city council decide the merits of the proposal and decide they don't want to include it in the comprehensive plan, we don't know how an appeal to the courts can second guess that local decision on a matter that is clearly of local concern and doesn't relate to state statute or LCDC rules. That sentence was put in there to eliminate appeals through the courts of those kinds of decisions. We have no objection to eliminating appeals on actions we need to take by ordinance that relate to rule amendments, things that are necessary to bring ourselves into compliance with the goals, but we do things beyond that. We would like to stop appeals of things beyond that at the local level.

If the committee includes this amendment, we would like to work with the department to come up with some language to divide the issue and treat the two cases separately.

149 CHAIR PARKINSON declares the meeting in recess from 2:42 to 2:53 p.m.

149 CHAIR PARKINSON: Is there a provision in the bill to excuse jurisdictions from periodic review?

165 MR. BLANTON: On page 3 of the -1 amendments (EXHIBIT A) line 7 talks about local government's obligation. We believe the decision that no work is necessary is going to be the case for a number of small jurisdictions and their plan will be sufficient to guide their decision making. We think this will be the decision for most small jurisdictions. There is a concept called expedited review for smaller jurisdictions. There is still an obligation from those jurisdictions to really undertake a number of amendments to their plans and codes under the current process regardless of their size and the fact that limit only applies to those smaller jurisdictions. We believe this provisions may encompass some medium and larger size jurisdictions that have kept their plans up to date. I think the working group would prefer the broader authority rather than just limiting it to the small jurisdictions.

187 CHAIR PARKINSON: I have heard from some county planning directors and county commissioners who think mandatory periodic review in their counties is a waste of time and resources.

210 CHAIR PARKINSON: (to Rep. VanLeeuwen) What type of people attended the Speaker's Task Force on State Mandates?

211 REP. VANLEEUEWEN: It was a selected group, mostly by the Speaker, of representatives of county and city governments from around the state. The memo is a result of Friday's meeting where they identified the mandates we have put on them and which they feel could be simplified or

done away with. These were the top 24 issues.

220 CHAIR PARKINSON: They mention periodic review for land use and they say, "Regular review of comprehensive plans has become an immense burden especially for smaller governments. LCDC can accept or reject the plan without criteria..." We could write an exemption and we could write in the law the fast growing governments would have to undergo periodic review. The theory, philosophy, would be that periodic review would be excused unless ordered by the commission. I would like to hear from the interest groups to see if they think it will work.

MR. WOLF: I believe this bill allows us to work with those jurisdictions who believe there is not a need for periodic review, to either excuse them from periodic review if there is no substantial change or to focus their work on one or two things to bring their plan up to date. In Crook County we needed to get some mineral and aggregate sites identified. They simply didn't want to make those designations. The state believed the work should have been done. It was a regional issue and the need to get the sites identified was important. Rep. Whitty raised the industrial land question in Coos County. At periodic review we will pick up that change in circumstance in the local planning circumstance where the voters have essentially said they don't want to allow pulp mills on this land. We will require that jurisdiction to go back and re-evaluate the economic element of their plan because they are, in effect, taking themselves out of compliance with the goals. Another example is farm worker housing.

293 CHAIR PARKINSON: Can the state right now require a plan amendment?

299 MR. WOLF: The state could order a plan amendment as a part of periodic review.

300 CHAIR PARKINSON: Other than at periodic review, the state cannot require the plan amendment?

302 MR. WOLF: There is an opportunity as a part of new rule writing under the commission's jurisdiction. If the commission adopts a new rule, they could require in a certain time frame that the rule be adopted locally.

311 CHAIR PARKINSON: How many cities and counties are there?

311 MR. WOLF: There are 36 counties and 242 cities.

314 CHAIR PARKINSON: How many have undergone periodic review?

316 MR. BLANTON: We are in the range of 130 to 150 cities having completed periodic review. From three to five counties have completed periodic review, including some that have gone through the expedited review process.

323 REP. COURTNEY: Can you point to the operative language in your amendments that allows you to waive or forgive a periodic review?

326 MR. WOLF: It is on page 3, line 7 of the HB 2150-1 amendments (EXHIBIT A).

333 REP. COURTNEY: On the record, you not only think it says that, what is your intention?

335 MR. WOLF: The intention is that in those circumstances where local conditions have not changed or there are not circumstances that in our review require modification of the comprehensive plan, that the commission could allow a jurisdiction to not have a work program related to periodic review.

323 REP. NORRIS: Do you visualize that as an affirmative thing on the part of local government where they should declare that they have made that determination subject to your review of that declaration?

350 MR. WOLF: The intent is that the jurisdiction would make the finding that they did not require periodic review. It would be reviewed and approved by the commission.

356 REP. NORRIS: Can that be construed by local governments in reading the words, or would it be expanded by rule?

358 MR. WOLF: It would be expanded by rule. Through rule, we would try to spell out the kinds of conditions that we believe would warrant a decision to not continue with periodic review.

366 CHAIR PARKINSON: My question was if we couldn't have a process where the cities or counties would only go through the periodic review process if the commission, with good cause and findings, said they needed to.

355 JAN CHILDS: Our concerns about periodic review refer to the existing process, not the process we are trying to get in place. In terms of the opt-out provision, it has always been our understanding and discussions that the local government would need to affirmatively find that further work is not necessary. It is our belief that it is important for a city to go through the process of evaluating the standards found in Section 2 and the -1 amendments beginning on line 11 and make an affirmative statement that the standards do or do not apply. We have some concern that if there is not some requirement in statute to review plans against standards of this sort, the temptation to ignore what is happening with the plan, particularly in light of dwindling resources, will become very high and people will not do the regular review and assessment we feel is necessary. Cities feel this should be a statutory requirement and we feel the three standards in Section 2 that cities should be required to make findings as to whether or not they feel additional work is required under the standards, but we feel equally strongly that those cities where circumstances have not changed, the amount of work required to make findings under Section 2 would be minimal. Once those findings are made to the commission that would be the end of periodic review. We feel with the revised process that periodic review should continue to be a statutory mandate and it should be required on a regular basis.

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24PHILLIP FELL, League of Oregon Cities: We have a position of strong support for HB 2150 and are particularly pleased with the -1 amendments. Philosophically, cities have always supported the land use process and people have supported the concept of Oregon's land use process. The implementation hasn't been as delightfully received. We think HB 2150 is a giant step in simplifying a process that does benefit cities.

044 FRED VANNATTA, Oregon Homebuilders Association: We were not a part of the group that put this together, but when I read it one of the

questions I had was to what extent do we drag jurisdictions through the process because we don't have anything else to do. I think I read in the bill a process where local jurisdictions did not have to go through the process if nobody found a problem. Several years ago when we were trying to save money, the home builders looked at the question of abolishing periodic review. We decided that wasn't a good idea. I think this bill lets people make an intelligent decision about whether they need to go through the process and we restate our support for it.

061 REP. BURTON: Is it your view that the language in lines 7-9 on page 3 of the HB 2150-1 amendments (EXHIBIT A) is indeed an option that once they have looked at it and there is a decision not to go through periodic review, a jurisdiction could opt out of it.

065 MR. VANNATTA: It is first on page 2, line 16. My reading of that is when a local jurisdiction comes in and says we don't have to do anything and the commissions says no work program is required. My reading of "no work program is required" was that they didn't have to go through periodic review. Staff tells me I read that correctly and it is probably fair to put it on the record.

077 REP. BURTON: I suggest that the department state on the record that is the intent; the commission will review those and allow jurisdictions to not proceed with periodic review if it is unnecessary.

076 DON MINER, Oregon Manufactured Housing Association: We weren't part of the process that developed the amendment or the bill, but it does appear to be a good idea to streamline the periodic review process. Many plans are not well done in terms of housing. Periodic review provides them with an opportunity to re-examine where they are in terms of housing, types and choices and selections for their community. I think it is a good idea to streamline the process and let small communities out where nothing has changed and nothing is likely to change.

093 RICHARD ANGSTROM, Oregon Concrete and Aggregate Producers Association: We support HB 2150 because most county plans to not have provisions to allow us to site aggregate operations under the Goal 5 process. We agree with the intent of the bill. The present system is so complex it takes a county forever to get through it. I think the fact that only 3 to 5 are through it is an indication of how slow it is for counties. This bill tends to limit those areas to the important areas or activities that need to be corrected in periodic review and is a positive step in the right direction.

I think as we go through and major discrepancies are corrected in the first periodic review, counties need direction to keep their plans current. We agree that after the initial review, strong authority should exist in LCDC to say the county doesn't need to go through periodic review or have a finding that they should. That will indirectly establish a system of priorities. We support the bill. We think it is going in the right direction.

124 RUSS NEBON, Association of Oregon Counties: It is easy to look at periodic review as the state imposing a bunch of requirements on local government. Before we had the state land use program, most local comprehensive plans recognized that planning was an on-going process and every five years or so they need to discipline themselves to go back through and read it.

203 REP. WHITTY: The public also changes. We have an influx of Californians who have a lot of time and they are going to attend the public hearings on periodic review. Input from the public in my district is drastically different now than what it would have been 10 or 5 years ago. Five years from now it will be different than it is now.

199 REP. NORRIS: Would this change enhance local control, local influence in the planning operation? Do yo--would counties have a greater grip on their destiny than they do now?

MR. NEBON: When you go to your citizens with a packet from LCDC, the citizens are told the game and the rules. The new process allows more local stake in the plan and it will have a more local element. I think it is better balance.

223 MOTION: REP. BURTON moves that the HB 2150-1 amendments (EXHIBIT A) BE ADOPTED.

VOTE: CHAIR PARKINSON, hearing no objection to the motion, declares the motion PASSED. All members are present.

250 CHAIR PARKINSON: The other amendments need to have more work by the groups and should be put into LC form.

263 JON CHANDLER, Common Ground: From the development standpoint, periodic review is one of the few times we have a chance to hold local government's feet to the fire. During our recent checks of periodic review, two examples of things came up, which may not come up if too loose an option is allowed. One was one jurisdiction has an urban growth boundary and a city limit within that urban growth boundary. Typically, an urban growth boundary is what is intended to contain urban development. Their comprehensive plan states they don't want any development going on outside the city limits. That dramatically curtails the ability of developers to do their job and it hampers the community's part in the land use process.

301 CHAIR PARKINSON: Have you ever requested a plan amendment?

303 MR. CHANDLER: My organization has not; the home builders organization has.

315 MR. CHANDLER: Another comprehensive plan we identified during this cycle contained language that nozone change or comprehensive plan could occur without "a showing of net public benefit." That is too vague to be enforceable and no one knows when you have met it. A balance needs to be struck between the rights of local government to conduct their business unhampered by state interference and the planning program itself.

338 REP. BURTON: You mentioned a list of state mandated concerns. May I get a copy?

343 CHAIR PARKINSON: Rep. VanLeeuwen will provide you a copy.

359 CHAIR PARKINSON closes the work session on HB 2150 and opens the work session for introduction of committee bills.

INTRODUCTION OF MEASURES

365 MOTION: REP. WHITTY moves that LC 3070 (EXHIBIT F) be introduced by the

committee at the request of the Washington County Historical Society.

371 VOTE: CHAIR PARKINSON, hearing no objection to the motion, declares the motion PASSED. All members are present.

375 MOTION: REP. WHITTY moves that LC 2983 (EXHIBIT G) be introduced by the

committee at the request of Common Ground.

381 VOTE: CHAIR PARKINSON, hearing no objection to the motion, declares the motion PASSED. All members are present.

382 MOTION: REP. WHITTY moves that LC 3314 (EXHIBIT H) be introduced as a committee bill.

391 CHAIR PARKINSON: Churches are allowed as conditional uses in EFU zones, but cemeteries are not.

422 VOTE: CHAIR PARKINSON, hearing no objection to the motion, declares the motion PASSED. All members are present.

427 REP. BURTON: The working group on HB 2246 will have a meeting tomorrow at 1:00 p.m. in Room 454. At this moment we have three amendments proposed and everyone is invited to attend and participate.

445 CHAIR PARKINSON closes the work session on introduction of committee bills and declares the meeting adjourned at 3:39 p.m.

Respectfully submitted, Reviewed by,

Annetta Mullins
Assistant

Kathryn VanNatta
Administrator

EXHIBIT SUMMARY

A -HB 2150, proposed amendments, HB 2150-1, Greg Wolf and Dale Blanton B
-HB 2150, draft of additional amendments to HB 2150, Greg Wolf and Dale
Blanton C -HB 2150, prepared statement, Greg Wolf and Dale Blanton D -HB
2150, Legislative Fiscal Analysis and Revenue Impact Analysis, staff E
-HB 2150, prepared statement, Roberta Jortner F -Introductions, LC 3070,
Washington County Historical Society G -Introductions, LC 2983, Common
Ground H -Introductions, LC 3314, Chair Parkinson