



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



MEETING MINUTES

May 3-5, 2006

LAND CONSERVATION AND DEVELOPMENT COMMISSION

**Douglas County Library
1409 NE Diamond Lake Blvd.
Roseburg, OR 97470**

(track 1)

Chair VanLandingham calls meeting to order at 8:38 a.m., May 4, 2006.

Commission Members present:

John VanLandingham

Ron Henri

Dennis Derby

Hanley Jenkins

Tim Josi

Commissioners Marilyn Worrix and Margaret Kirkpatrick are excused.

(track 2)

Agenda Item 2 – Public Comment

Molly Jacobsen, citizen – Testifies and submits written testimony regarding HB 2247 (2005) (**Exhibit A**).

Lane Shetterly, Director – Discusses that the Planning Director for Douglas County, Keith Cubic, and Ron Eber from the department have been working on this issue and are close to a resolution. States that DLCD staff will be in contact with Ms. Jacobsen about this matter soon.

Chair John VanLandingham – States that he helped write HB 2247 (2005) and that because this is a state statute, the Commission has no control over changing state law.

(track 3)

Agenda Item 3 – Request to Appeal

Lane Shetterly, Director – There are no requests to appeal at this time.

(track 4)

Agenda Item 4 – Citizen Involvement Advisory Committee (CIAC)

Ian Maitland, CIAC member – Discusses the issues talked about at the Citizen Involvement - Education & Outreach event that was held last night, May 3, 2006, located in Roseburg, Oregon. Submits a letter from Janell Stradtner (**Exhibit B**).

Pat Zimmerman, CIAC member – Discusses that the CIAC would like to approach the Task Force on Land Use Planning to tell them who the CIAC is and how they could help in the Big Look process. Discusses the “How to Testify at Land Use Hearings” brochure that the CIAC has developed (**Exhibit C**). Discusses the minutes from the Citizen Involvement - Education & Outreach event that was held in McMinnville on March 23, 2006 (**Exhibit D**).

Lane Shetterly, Director – Discusses that the department is finalizing a guide on Land Use Planning to provide to local jurisdictions that will include a section regarding citizen involvement.

Zimmerman – Continues review of the May 3, 2006, Citizen Involvement – Education & Outreach event.

(track 5)

Continuation of Agenda Item 2 – Public Comment

Bill Bockley, Real Estate Agent – Testifies regarding Measure 37 and states his concerns with the transferability issue.

Lane Shetterly, Director – Explains that there are huge questions regarding the interpretation of Measure 37 and the issue of transferability is being challenged in currently in two courts. In the meantime, there is a letter which is posted on the department’s website from the Department of Justice to the department (DLCD) regarding transferability.

Chair VanLandingham – Explains that because Measure 37 is a state statute, it can only be changed by the Legislature.

Director Shetterly – States that the department worked with the Legislature for five months during the last legislative session to try and resolve several issues in Measure 37, including transferability.

(track 6)

Agenda Item 5a – Periodic Review of City of Salem Tasks 3 & 5

Rob Hallyburton, Community Services Division Manager – Submits staff report regarding the periodic review of the City of Salem, Tasks 3 and 5, regarding the City's transportation system plan (**Exhibit E**).

Motion – Commissioner Tim Josi moves that the Commission continue the hearing on the matter of the appeal of the department remand of Salem periodic review Tasks 3 and 5 to the August 9-11, 2006, meeting in Florence, Oregon, based on the finding that the matter is appropriate for mediation.

Ron Henri, Commissioner – Seconds motion.

Vote – 5-0, Commissioners Kirkpatrick and Worrix are excused.

(track 7)

Agenda Item 5b – Periodic Review of City of Eugene Task 7 – Goal 5

Chair VanLandingham – States that he had ex-parte contact with Roxie Cuellar this last Monday regarding this matter.

Richard Whitman, Asst. Attorney General for the Commission – If there are particular facts that need to be revealed, they should be revealed now.

Chair VanLandingham – States the facts were that the City was opposing providing data to the Home Builders Association (HBA) from the LCOG database, and HBA was looking for Commission assistance in the matter.

Marguerite Nabeta, Regional Representative for Southern Willamette Valley – Submits staff report regarding the periodic review for the City of Eugene Task 7 – Goal 5 (**Exhibits F and G**).

Chair VanLandingham – Recesses the meeting at 9:19 a.m.

Chair VanLandingham – Reconvenes the meeting at 9:30 a.m.

Nabeta – Discusses the staff report and the objections that were submitted, pg. 10 – Objection C1. The first objection is from Douglas and Sharen Heer regarding a portion of a Goal 5 water resource site on their development.

Hanley Jenkins, Commissioner – Clarifies that the problem is that a portion of their property is affected by the 25 ft. setback.

Nabeta – Objection C2 is from Stan Baird and Marilyn Rothbard regarding the designation and protection of a portion of their property as a significant Goal 5 site.

Chair VanLandingham – Asks if the City of Eugene’s program allows that approved development would be exempt from the regulation, and if the permits that have been granted don’t call for anything more than what is there.

Nabeta – Yes. Continues discussion of Objection C2.

Henri – How much utility work has been developed on the property?

Nabeta – Explains that there is water and electricity up to the property, but not throughout the site.

Chair VanLandingham – States that there is no objection to taking oral testimony.

Neil Bjorkland, City of Eugene – States that Ms. Nabeta accurately portrayed what has happened on this specific site.

Nabeta – Discusses Objection C3, from Mark Schutz, regarding designation protection of a portion of his property as a significant Goal 5 site.

Roxie Cuellar, Home Builders Association (HBA) of Lane County – Discusses HBA’s objections to the Goal 5 process as it has been established in the Eugene/Springfield area. States that HBA’s issue is regarding land supply and the Eugene/Springfield UGB. Discusses that a jurisdiction cannot exit periodic review if they are not in compliance with all of the Statewide Planning Goals.

Emily Jermone, City of Eugene – Discusses what the City was required to do regarding Work Task 7, under Goal 5. States that the City of Eugene filed a thorough response to the objections, showing how the action is consistent with the rules for the task before them.

Cuellar – Discusses the length of time is has taken to do this periodic review task and that as a result, they have essentially “skipped” a periodic review process and that there is currently not enough surplus land to take Eugene/Springfield into the next periodic review.

Jerome – Discusses that within this periodic review process, the buildable land supply is forecasted out through 2015. Even if there was no surplus, the City would still be in compliance with Goal 10, which requires that the City meet the need.

Cuellar – The idea of periodic review is to guarantee that there is a surplus beyond periodic review to carry a jurisdiction into the next process.

Chair VanLandingham – The process doesn’t require the City to meet the demand plus the surplus.

Cuellar – States that for Eugene, there has to be a 20 year land supply available at the end of periodic review.

Jerome – States that the requirement with periodic review is that at the end of it, a jurisdiction has enough supply to meet demand.

Chair VanLandingham – Was part of the delay in the periodic review process due to the City changing how closely it was going to examine Goal 5 resources?

Bjorkland – The greatest amount of delay was due to the lack of agreement from the three jurisdictions (Lane County, the City of Eugene and the City of Springfield).

Chair VanLandingham – When would Eugene be required to do their next periodic review?

Rob Hallyburton, Community Services Division Manager – Under current statute, the interval between periodic review is seven years. The Commission may require that they start their review early, but no earlier than five years.

Chair VanLandingham – Asks if the Commission has ever required a jurisdiction to start periodic review early.

Hallyburton – No.

Jenkins – There is nothing that prevents the local jurisdiction, if they find public interest, to pursue review of one element such as a reevaluation of their residential housing needs assessment.

Hallyburton – That is correct.

Commission discussion regarding how much residential land will be available in the future in the Eugene/Springfield area.

Cuellar – Discusses Objection C1, the single review issue, and that the impact of Goal 5 for both the City of Eugene and the City of Springfield be considered as a cumulative impact on the UGB.

Jerome – Discusses the processes completed by the City of Eugene and the City of Springfield, and that the numbers were shared between cities.

Nabeta – Discusses that the department agreed with the City of Eugene on this issue.

Cuellar – States that HBA has no issue with the different approaches that the cities took, but that their issue is the land supply.

Chair VanLandingham – Asks HBA what the practical difference is between single review or joint review.

Cuellar – States that HBA doesn't have a preference for single or joint review; just that the numbers come together in the end for the land supply issue. Discusses HBA's next objection regarding the timing of adding land into the residential land supply; prior to or at the next periodic review.

Bill Kloos, Attorney for Home Builders Association – Discusses that a jurisdiction needs to come out of periodic review in compliance with the goals, rather than wanting to solve the issue at the next periodic review. States that a jurisdiction can't interpret a rule in a way that makes it inconsistent with a goal.

Jerome – States that the City of Eugene doesn't feel there is a conflict between the rules and Goal 5. Under the rule, OAR 660-023-0070(1), the Commission can't require the City to add to their periodic review list unless the department pays for it. The City doesn't feel they need to review their buildable lands supply because there is a surplus.

Nabeta – Cites pg. 7 of the staff report, and that staff report doesn't state that the City of Eugene is in non-compliance (**Exhibit F**).

Chair VanLandingham – Discusses the rule interpretation issue and that a jurisdiction can choose to either review their land supply prior to or at the next periodic review.

Cuellar – States that she doesn't disagree with the rule, just whether or not the City gets to decide which option they choose.

Kloos – Discusses if the rule is in compliance with the goals.

Jerome – States that the Commission isn't required to make a decision on whether the rule is invalid.

Cuellar – Discusses the intent of the rule.

Jenkins – States that because of the length of this periodic review, to go back and evaluate what the City has done in regard to residential housing is a source of frustration.

Cuellar – States that the fact that it took twelve years for the City to finish the periodic review is the fault of the City and of DLCD.

Lane Shetterly, Director – States that the department's position is that there is goal compliance.

Chair Van Landingham – States that it isn't the fault of anyone that it took twelve years to finish the periodic review.

Cuellar – Discusses HBA's third objection, included in Attachment F of the staff report regarding residential land analysis (**Exhibit F**). States that HBA's position is that a jurisdiction has to exit periodic review in compliance with all of the goals.

Chair Van Landingham – Recesses the meeting at 10:44 a.m.

Chair Van Landingham – Reconvenes the meeting at 10:52 a.m.

Cuellar – Continues with objections regarding the residential land analysis. Discusses problems with Eugene plan designations.

Chair Van Landingham – Cites Attachment F, pg. 689 and discusses park lands (**Exhibit F**).

Kloos – Discusses attachments to his exceptions and property acquisitions for parks in the City of Eugene (**Exhibit G**).

Jerome – States objection that the park land issue is beyond the record.

Cuellar – Discusses the numbers and deductions in the residential land supply. States that if staff had included the zone changes there would have been a deficit.

Kloos – Discusses neighborhood and community park acreage.

Chair VanLandingham – Discusses that recently the Commission did a similar number analysis with Portland Metro’s industrial land supply, and that the Commission concluded that Metro only had to be “close enough” to the requirement.

Whitman – Clarifies that the “close enough” requirement is an existing statutory provision in terms of what compliance with the goals means.

Kloos – States that nothing the HBA is asking for today requires a new work task.

Director Shetterly – States that the staff review is whether the City has complied with the goals, and if there is substantial evidence in the record to support that.

Jerome – States that the numbers add up in the record, that Eugene is in compliance with Goal 10, and that the affected lots are still buildable.

Bjorkland – Discusses buildable lots and how the City determined their numbers, acres that are exempt from regulations, and how regulations exempt existing building footprints. Discusses how these are worst case potential impacts, and not actual.

Chair VanLandingham – Clarifies that the City expects that there will be less than 445.77 acres impacted by the Goal 5 protection measures.

Jerome – Discusses Task 17, the housekeeping amendments, cites Attachment F, pgs. 697 and 688 of the staff report (**Exhibit F**). Discusses park acreage in the residential lands inventory, and how park acreage isn’t included in the inventory.

Kloos – Regarding park acquisition, only those parks designated as community and regional parks are not accounted for in the land supply, but that neighborhood parks are included.

Cuellar – States that some parcels may have significant portions that are not buildable. Discusses the Task 17 housekeeping amendments.

Jerome – States that it is difficult to respond to HBA’s general allegations that they were not in compliance, and that the specifics of how the City meets compliance are in the record.

Chair VanLandingham – Asks if high demand verses low demand matters to either the City or HBA. Discusses whether or not the City of Eugene is out of compliance if it has a surplus for low demand and not for high demand. Summarizes HBA's number analysis by saying that taking the numbers for high demand you end up with negative thirty-three acres.

Cuellar – In 2015, at the end of periodic review we would end up with no land; we will develop every vacant parcel in the residential land supply.

Kloos – Discusses numbers and debits, and refers to his objection letter (**Exhibit F**).

Dennis Derby, Commissioner – Asks for clarification regarding the comment that adjustments on a site specific basis will be made so that no lot is unbuildable.

Bjorkland – Discusses the intention of the code for buildable lots.

Cuellar – Discusses the Goal 5 process in regard to slope land.

Jerome – States that there is no requirement for the City of Eugene to meet HBA's objections. Refers to page 16 of the City's response (**Exhibit F**).

Cuellar – Discusses the Goal 5 rule in regard to the residential land supply.

Chair VanLandingham – Asks both parties to respond to the issue of a review of the residential land supply resulting in a new task.

Jerome – States that she would advise the City of Eugene to argue that reviewing the residential land supply would constitute a new task.

Kloos – States that he thinks reviewing the residential land supply is not a new task because the City has to fix what they've already done.

Cuellar – States that the review isn't a new requirement, so it wouldn't constitute a new task.

Jerome – States that there has been thorough consideration and a decision followed by an appeal dismissed by the court of appeals with respect to the housekeeping amendments.

Kloos – Refers to court of appeals case law that says that periodic review is a serial process.

Cuellar – States that HBA is looking for solutions to the residential land supply in Eugene.

Derby – Asks Ms. Jerome if she characterized the 20 year supply as not exhausting the residential land supply.

Jerome – That is true; it would be at zero in 2015 if every acre set aside is actually built on.

Derby – Is it the City's expectation that they would enter the next periodic review in 2015?

Jerome – Yes, but it isn't to say that the City wouldn't look at the buildable land needs before that date.

Chair VanLandingham – States that the HBA has three issues that they've raised today: 1) single review, 2) interpretation of the "prior to or at the next periodic review" rule and 3) deficit issues. States that he would like to focus their discussion on the third issue (the deficit issue).

Chair VanLandingham – Recesses the meeting at 11:50 a.m.

(track 8)

Chair VanLandingham – Reconvenes the meeting at 12:54 p.m.

Chair VanLandingham – Discusses that the buildable lands supply in Eugene has been reduced, the question is whether it is now in a deficit and if so, is it significant? And further, if it is significant, what could or should the Commission do about it?

Josi – States that the main question is whether or not the City did an adequate job of reviewing their information, and that he believes they did.

Henri – States that he too feels that the City did an adequate job of reviewing their needs and allowing for flexibility, and that the deficit issue isn't a large enough amount to consider significant.

Derby – The core issue is whether there is an adequate residential land supply, and 33 acres plus or minus isn't going to solve that issue. Agrees that the department's periodic review rule needs some work.

Jenkins – Discusses that while the issue of not having enough residential land available in the near future may be real, the 33 acres is only .5% of the total available lands and there just hasn't been enough information to show that the City of Eugene didn't do an adequate job in the evaluation of their numbers.

Chair VanLandingham – The 20 year planning period was supposed to stretch to 2015 and with how the periodic review cycle will work for Eugene, the City won't have to look at their numbers again until 2013 which is very close to the 2015 date.

Hallyburton – States that he's not sure that having a monitoring program is something that is available or allowable in the rule.

Whitman – The Commission hasn't ever used their authority to order a jurisdiction into periodic review early, but that authority does exist. There might however, be the obligation for the department to pay for the review if the Commission orders a jurisdiction into periodic review early.

Chair VanLandingham – If the City of Eugene brought to us a projected 33 acre deficit, I would approve it.

Motion – Commissioner Josi moves that the Commission approve the City of Eugene Task 7 submittal based on findings in the department’s staff report and information provided at the hearing.

Henri – Seconds motion.

Chair VanLandingham – Discusses that there is a need to review the 007 rule to change the inconsistencies and conflicts.

Derby – States that the Commission needs to work on the 007 rule and eliminate contradictions. States that he agrees with the Commission’s assessment of the thirty-three acres.

Vote – 5-0, Commissioners Kirkpatrick and Worrix are excused.

(track 9)

Agenda Item 5c – Periodic Review of City of Springfield Tasks 4 & 7 – Goal 5

Marguerite Nabeta, Southern Willamette Valley Regional Representative – Submits staff report regarding the periodic review of the City of Springfield Tasks 4 and 7 (**Exhibits H and I**).

Roxie Cuellar, Home Builders Assoc. of Lane County – The Homebuilders waive their argument.

Meg Kieran, City of Springfield – Testifies regarding the periodic review of the City of Springfield Tasks 4 and 7 and asks that the record include the decision and the discussion that was just made regarding the Eugene periodic review decision.

Richard Whitman, Asst. Attorney General for the Commission – States that he believes that the Commission may not take into account the materials from the Eugene periodic review decision because it would constitute new information.

Kieran – Continues with testimony of the periodic review of the City of Springfield Tasks 4 and 7. Submits a summary of arguments for the Commission to review (**Exhibit J**).

Motion – Commissioner Jenkins moves that the Commission approve the City of Springfield Tasks 4 and 7 submittal based on findings the department’s staff report and information provided at the hearing.

Josi – Seconds motion.

Vote – 5-0, Commissioners Kirkpatrick and Worrix are excused.

Chair VanLandingham – States that he hopes that the City of Eugene will consider the future residential land need within the Eugene/Springfield UGB.

(track 10)

Agenda Item 5d – Periodic Review of Polk County Task 9

Doug White, DLCD Staff – Submits staff report regarding the periodic review of Polk County Task 9 (**Exhibit K**). Cites pg. 6 of the report – DLCD response to Objection 3 and that the reference to the S-curves are to the east, not to the west.

David Franzen, citizen – Testifies and submits written testimony regarding the appeal to the periodic review of Polk County Task 9 (**Exhibit L**). States that he represents himself, the Grand Ronde historic district and the non-tribal business owners.

Chair VanLandingham – States that because the photos included in Mr. Franzen’s written testimony were not included in the original record, they are not appropriate for review before the Commission (**Exhibit L**).

Chair VanLandingham – Recesses the meeting at 1:40 p.m.

Chair VanLandingham – Reconvenes the meeting at 1:45 p.m.

Chair VanLandingham – States that Polk County does not object to the pictures in the testimony and will allow them into the record.

Franzen – Continues with testimony regarding the appeal to the periodic review of Polk County Task 9 (**Exhibit L**). Reviews and gives historical background to the pictures included in his testimony.

Chair VanLandingham – Clarifies that buildings in the area that Mr. Franzen is referring to haven’t been designated by the National Historical Register.

Franzen – States that the historic district that he is referring to is non-sanctioned, and is made up of the property owners in the area.

Jenkins – Clarifies that there is one building that is on the Historic Register.

Commission discussion with Mr. Franzen as to which sites in the referred to area are on the National Historic District.

Jim Allen, Polk County Community Development Director – Testifies regarding the appeal to the periodic review of Polk County Task 9 and states that Polk County agrees with the department’s staff report and recommendations.

John deTar, Senior Regional Planner, ODOT – Testifies regarding the periodic review of Polk County Task 9. Discusses traffic movement and volume through the corridor around Valley Junction.

Chair VanLandingham – Asks Mr. deTar to talk about what consideration ODOT did give to historic buildings.

deTar – Discusses the historical significance of properties in the Grand Ronde area.

Chair VanLandingham – Asks Mr. deTar what ODOT does with information from communities in opposition to ODOT plans.

deTar – States that it is difficult to evaluate poll type information because it doesn't clarify what needs to be identified or corrected. When there is a specific issue identified, ODOT does evaluate that.

Chair VanLandingham – Asks Mr. deTar if ODOT looked at Mr. Franzen's alternatives.

deTar – States that ODOT looked at two different alternatives, but rejected both because they had negative environmental impacts.

Allen – States that the staff report includes future processes that the County will have to do, and that the County recommends that the Commission approve this work task.

Jenkins – Asks Mr. Allen if the County has a process for evaluating, altering, or removing properties from the historical registry, and if any of Mr. Franzen's parcels have been adopted by the County.

Allen – States that the County does have a process for evaluating, altering or removing properties from the historical registry, and what that process is.

Jenkins – Asks what the County would do if they had other conflicting goal resources.

Allen – States that those would have to be evaluated.

Derby – Asks for comment on the Van Duzer compact with the State.

deTar – States the agreement affects forest practices in the area, but isn't familiar with issues that apply to the Grand Ronde area specifically.

Derby – What is the practical effect of a plan change with respect to the future use of those properties for following this plan?

Allen – Discusses that the practical effect should apply an easy, safe access to the properties.

Derby – Clarifies that he wants to know what the interim effect on these properties will be until the improvements are implemented.

Allen – Ultimately ODOT would obtain the properties that are identified as necessary for purchase. In the interim period the landowner would continue operating their business or living in their house until ODOT is ready for the project.

Derby – Asks about restrictions on improvements.

Allen – States that nothing in this plan has identified that restrictions are necessary. Discusses the trip cap in place in the area. States that practically they are talking with people in the area about the needs of the area.

deTar – States that ODOT has not moved to the point of design.

Derby – States that when Mr. Allen and Mr. deTar are talking ten or fifteen years out it creates a dilemma for property owners in the interim. Asks if there is a way for the County to mitigate some of those uncertainties.

Allen – States that the uncertainty of how and when, are likely to have impacts on numerous properties that the community is having to deal with.

Derby – Asks if the TSP adoption includes any conditional aspects.

Allen – States that the County wants to be flexible within the community.

Josi – States that he is a firm believer in TSPs, and he commends the County's effort for going forward even through the controversy.

Motion – Commissioner Josi moves that the Commission affirm the director's approval of the Polk County Task 9 submittal in Order 001686, as amended, based on the findings in the department's staff report and information provided at the hearing.

Derby – Seconds motion.

Chair VanLandingham – States that historic preservation experts have looked at the buildings in Grand Ronde and aren't wanting to stop this particular project. States that it is the Commission's role to evaluate Polk County's evaluation of the project.

Vote – 5-0, Commissioners Kirkpatrick and Worrix are excused.

Chair VanLandingham – Recesses the meeting at 2:56 p.m.

(track 11)

Chair VanLandingham – Reconvenes the meeting at 3:05 p.m.

Agenda Item 5e – Periodic Review of Polk County Task 3

Doug White, DLCD staff – Submits staff report regarding the referral of periodic review of Polk County Task 3 (**Exhibits M and N**). States that Polk County has satisfied six of the seven requirements of Task 3. Discusses the exceptions to the report that were submitted (**Exhibit N**).

Sid Friedman, 1000 Friends of Oregon – Testifies regarding the referral of periodic review of Polk County Task 3. States that in the 1000 Friends objections, the top northeast parcel was stated to not be in the UGB, when in fact it is. Discusses 1000 Friends objections to the staff report. Submits map regarding Grand Ronde Urban Community Zoning (**Exhibit O**).

Chair VanLandingham – Clairfies that Mr. Friedman doesn't think that Polk County's findings are adequate.

Friedman – States that he believes they are adequate for the two properties that they address, but not for all the other properties that were zoned for more intensive development.

Chair VanLandingham – Asks if the Commission required Polk County to look at that issue.

Friedman – Cites and discusses the department's remand order (**Exhibit M**).

Josi – Asks if the lands in question are tribal owned lands.

Friedman – Regardless whether or not you can tell the tribe what they can or cannot do with their land, the rule says that resource land can only be included in an unincorporated community boundary if you take an exception to Goals 3 and 4.

Jim Allen, Polk County Community Development Director – Testifies regarding the referral of periodic review of Polk County Task 3, including supplemental findings set forth in Polk County Commissioner Mike Propes' letter of April 19, 2006, addressed to Chair VanLandingham.

Richard Whitman, Asst. Attorney General for the Commission – States that the Commission has the authority under OAR 660-025-0160(8), to require specific land use regulations to be completed by a specific date.

Chair VanLandingham – Asks Mr. Allen what an appropriate date would be to finish the task.

Allen – We could complete the task in four months.

White – Discusses the objections in the staff report (**Exhibit M**).

Chair VanLandingham – Is the application of the tribal trust lands part of the appeal?

White – Yes it is. States that the department's recommendation is to approve the work task upon the County adopting findings.

Motion – Commissioner Josi moves that the Commission approve the Polk County Task 3 submittal and direct that Polk County adopt by no later than September 4, 2006, the supplemental findings set forth in Polk County Commissioner Mike Propes' exception letter of April 19, 2006, addressed to Chair VanLandingham.

Henri – Seconds motion.

Vote – 5-0, Commissioners Kirkpatrick and Worrix are excused.

(track 12)

Agenda Item 6 – Citizen-Initiated Enforcement Petition Against Deschutes County

Richard Whitman, Asst. Attorney General for the Commission – Discusses the Commission’s responsibility regarding the procedure of a citizen-initiated enforcement petition.

Jon Jinings, DLCD Eastern Oregon Regional Representative – Submits staff report regarding the citizen-initiated enforcement petition against Deschutes County (**Exhibit P**).

Laurie Craghead, Assistant Legal County Deschutes County – Testifies and submits written testimony regarding the citizen-initiated enforcement petition against Deschutes County (**Exhibit Q**).

Chair VanLandingham – Asks about Sunriver properties requiring a room tax.

Josi – Clarifies that the Commission doesn’t have jurisdiction because it is not a land use issue.

Craghead – That is correct.

Chair VanLandingham – States that he doesn’t feel like the decisions that were made by the County were land use decisions.

Derby – Asks if the issues here should have been taken to LUBA.

Chair VanLandingham – States that the department’s view is that Deschutes County’s decisions were consistent with their plan.

Jenkins – The staff report indicates that two of the three decisions were handled as a single review.

Jinings – States that the petitioner is not here.

Motion – Commissioner Jenkins moves that the Commission issue a written decision stating that it has not found good cause to proceed to a contested case hearing in this matter.

Henri – Seconds motion.

Vote – 5-0, Commissioners Kirkpatrick and Worrrix are excused.

(track 13)

Agenda Item 10 – Director’s Report

Lane Shetterly, Director – Submits Director’s report and addendum to the Director’s report regarding the department’s activities since the Commission last met (**Exhibits R and S**).

Chair VanLandingham – Asks if there seems to be a pattern of significance of PAPA’s submitted to the department.

Rob Hallyburton, Community Services Division Manager – There doesn’t seem to be.

Director Shetterly – Continues with discussion of Director’s Report.

No Commission opposition to the UGB workgroup member changes as identified on pg. 7 of Director’s Report. The workgroup determined whether the UGB rules previously proposed by the workgroup could be divided into a near-term and longer-term set of rules. The League of Oregon Cities suggested that Steve Bryant be appointed to the workgroup, and the Special District Association of Oregon suggested replacing its representative, Burton Weast (who has retired) with Kelly Ross.

Director Shetterly – Continues with discussion of Director’s Report.

Agenda Item 8 – Task Force on Land Use Planning Update

Lane Shetterly, Director – Provides Commission with update of the Task Force on Land Use Planning.

Chair VanLandingham – Discusses that he attended a session in Corvallis recently to get people involved and aware of the Task Force on Land Use Planning.

Director Shetterly – Continues with discussion of the task force’s activities.

(track 14)

Agenda Item 9 – Measure 37 Update

Lane Shetterly, Director – Provides Commission with report regarding Measure 37 and its effects on the department and submits a status of Measure 37 claims and a weekly claims processing report (**Exhibits T and U**).

Richard Whitman, Asst. Attorney General for the Commission – Discusses the Measure 37 litigation that has been filed with the department.

Director Shetterly – Continues with update of Measure 37 claims and litigation that have been filed with the department. States that the department will be asking for additional funds from the Legislature at the June E-Board to help with litigation and Measure 37 costs. Discusses that 1000 Friends of Oregon has created a methodology for valuation that includes an equivalence in terms of the claimed loss and any waiver that is given.

Whitman – Further clarifies the 1000 Friends Measure 37 proposal.

Director Shetterly – Continues with discussion of 1000 Friends’ proposal regarding Measure 37.

(track 15)

Agenda Item 12 – Commission Minutes

Chair VanLandingham – Discusses that there are no minutes to approve at this time.

Agenda Item 13 – Review of Future Agenda

Commission discussion of the Pendleton meeting in June and the rest of the Commission's schedule for the year.

(track 16)

Agenda Item 11 – Commission Business and Reports

Derby – Discusses the BAM Subcommittee report (**Exhibit V**). Clarifies statement he made during the Eugene periodic review on how long the process can take.

Chair VanLandingham – Recess the meeting at 5:08 p.m.

(track 17)

Chair VanLandingham – Reconvenes the meeting at 9:07 a.m., May 5, 2006.

Agenda Item 7 – Roundtable Discussion with Local Governments, Cow Creek Band of Umpqua Tribe of Indians and other invited guests

People in attendance include: Hanley Jenkins, Commissioner; John Van Landingham, Commissioner; Tim Josi, Commissioner; Ron Henri, Commissioner; Dennis Derby, Commissioner; Lane Shetterly, Director; Carol McKinney, Cow Creek Tribe; Michael Rondeau, Cow Creek Tribe; Sue Schaffer, Chairman, Cow Creek Tribe; Tom Bondeau, Cow Creek Tribe; Wayne Shammel, Cow Creek Tribe; Phil Stenbeck, Douglas County Planning; Keith Cubic, Douglas County Planning; Marilyn Kittelman, Douglas County Commissioner; Dan VanSylke, Douglas County Commissioner; Brian Parkinson, Douglas County Planning Commission; Jeff Byers, Cow Creek Tribe; Amy Amoroso, Cow Creek Tribe; Craig Ericson, Cow Creek Tribe; Tonya Thiess Skrip, Cow Creek Tribe; Jim Huber, City of Grants Pass; Alice Lackey, League of Women Voters of the Umpqua Valley; Jhana McCullum, citizen; Rick Coen, City of Roseburg Council; Paul Zegers, Cow Creek Tribe; Satish Upadhyay, DAS; Gordon Smith, Citizen; Tony Miller, Douglas County Planning; Tom Schauer, City of Grants Pass; Tom Humphrey, City of Central Point (**Exhibit W**).

Roundtable discussions include: urban growth boundary expansions in the City of Roseburg, secondary lands issue, more local control of land use decisions, the retail impacts of the agricultural industry, Task Force on Land Use Planning and the issues that they will be looking at and who is on the Task Force, tribal trust lands and intergovernmental agreements, tribal building codes, economic development, local government relationships with tribes, Oregon Administrative Rules being difficult to use, outreach and public education on land use planning,

Tribal Information Day at the Capitol, public intimidation by the land use process, Goal 14 and safe harbors, streamlining the land use process through better communication between governments and interaction with the public, regionalization in the state planning process, regional problem solving, available industrial and commercial lands, how to get young people involved in the land use process, local governments streamlining their own process to help expedite county land use decisions, that it may take some time to deconstruct the thirty-years of tension that has been built within the land use process.

Chair VanLandingham – Adjourns the meeting at 10:51 a.m.

Submitted By:

Jenny Hill,
Department of Land Conservation and Development

Exhibit Summary:

- A. Agenda Item 2, Public Comment, The Hot Button Issue: RV Parks as Permanent Alternative Dwellings – Molly Jacobsen, 11 pgs.**
- B. Agenda Item 4, CIAC Testimony – Janell Stradtner, 1 pg.**
- C. Agenda Item 4, How to Testify at Land Use Hearings – DLCD Staff, 3 pgs.**
- D. Agenda Item 4, CIAC McMinnville Outreach Session Minutes – DLCD Staff, 7 pgs.**
- E. Agenda Item 5a, Periodic Review of City of Salem Tasks 3 & 5 Staff Report – DLCD Staff, 6 pgs.**
- F. Agenda Item 5b, Periodic Review of City of Eugene Task 7 – Goal 5 Staff Report – DLCD Staff, 141 pgs.**
- G. Agenda Item 5b, Periodic Review of City of Eugene Task 7 – Goal 5 Exceptions to the Director’s Report – DLCD Staff, 23 pgs.**
- H. Agenda Item 5c, Periodic Review of City of Springfield Tasks 4 & 7 – Goal 5 Staff Report – DLCD Staff, 79 pgs.**
- I. Agenda Item 5c, Periodic Review of City of Springfield Tasks 4 & 7 – Goal 5 Exceptions to the Director’s Report – DLCD Staff, 9 pg.**
- J. Agenda Item 5c, Periodic Review of City of Springfield Tasks 4 & 7 – Goal 5 Testimony – Meg Kieran, City of Springfield, 5 pgs.**
- K. Agenda Item 5d, Periodic Review of Polk County Task 9 Staff Report – DLCD Staff, 177 pgs.**
- L. Agenda Item 5d, Periodic Review of Polk County Task 9 Testimony – David Franzen, 25 pgs.**
- M. Agenda Item 5e, Periodic Review of Polk County Task 3 Staff Report – DLCD Staff, 128 pgs.**
- N. Agenda Item 5e, Periodic Review of Polk County Task 3 Exceptions to the Director’s Report – DLCD Staff, 8 pgs.**
- O. Agenda Item 5e, Periodic Review of Polk County Task 3 Testimony – Sid Friedman, 1000 Friends of Oregon, 1 pg.**

- P. Agenda Item 6, Citizen-Initiated Enforcement Petition Against Deschutes County Staff Report – DLCD Staff, 155 pgs.**
- Q. Agenda Item 6, Citizen-Initiated Enforcement Petition Against Deschutes County Testimony – Laurie Craghead, Deschutes County, 7 pgs.**
- R. Agenda Item 10, Director’s Report – DLCD Staff, 14 pgs.**
- S. Agenda Item 10, Addendum to Director’s Report – DLCD Staff, 3 pgs.**
- T. Agenda Item 9, Status of Measure 37 Claims – DLCD Staff, 1 pg.**
- U. Agenda Item 9, Measure 37 Weekly Claim Processing Report – DLCD Staff, 1 pg.**
- V. Agenda Item 11, LCDC Budget and Management Subcommittee Agenda – DLCD Staff, 8 pgs.**
- W. Agenda Item 7, Roundtable Discussion Sign-up List – DLCD Staff, 2 pgs.**