

# UGB – Rulemaking Advisory Committee

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**Meeting Notes:** 10/31/2013 (1st meeting)

**Attendees:** Marilyn Worrix (Chair), Jeff Condit; Jim Johnson; Mike Freese; Pamela Barlow-Lind; John VanLandingham; Jerri Bohard; Kim Travis; Damian Syrnyk; Peggy Lynch; Stephan Lashbrook; Erin Doyle; Bob Rindy; Gordon Howard; Mary Kyle McCurdy; Casaria Taylor; Carrie MacLaren; Richard Whitman; Alissa Hansen; Jon Chandler; Kathy Verble.

**Via phone:** Nick Lelack; Greg Winterowd; Steve Faust; Christe White; Jason Jurjevich

## Welcome

Marilyn Worrix thanked everyone for joining and also those that were involved in the legislation. She included a personal thank you to Richard Whitman for all of his leadership and work on the legislation.

An agenda and related material had been attached to the email sent to the group prior to the meeting. Attachments included: Draft Operating Principles, Draft list of Policy and Research Tasks, HB 2254, a Section-by-Section analysis of HB 2254 (by Richard Whitman). At the meeting an additional handout was provided: two options for a timeline to complete the required rules.

## Introductions

Members of the group introduced themselves.

## Governor's Office Comments

Richard Whitman provided opening remarks to the group about the history of the UGB process, the reasons he decided it was necessary to provide this option for a streamlined UGB process and the importance of the rule drafting work this group will be taking on over the next 14 plus months. He believes the UGB process has been “very painful” over the past 10 years. Decision making at the local level is a main goal of the new process. The legislation does not address issues of communities that are not growing. Richard indicated that he will not be leading the rulemaking – the department will be leading this effort.

## Charge

Carrie MacLaren introduced the “charge” to LCDC and to the appointed RAC provided, by the enacted legislation HB 2254, Section 2 (summarized on page 1 of the hand-out ‘Policy and Research Tasks Necessary for New UGB Rules’). This section provides a set of principles to guide the rulemaking.

## Public Meetings Law Overview

Casaria Taylor gave an overview of the document 'Overview of Public Meetings Law'. She pointed out the section about emailing and reminded the group not to send emails amongst a majority of the group since this could inadvertently constitute "a meeting." She asked the group to instead send emails to Bob Rindy, Gordon Howard or Casaria Taylor; a DLCD staff will then send the email to the entire group. The group will be emailed using the 'BCC' option so as not to inadvertently create a meeting via 'reply all'.

## Setting Next Meeting

Members in attendance filled in the hand-out of the November calendar to aide in setting a November meeting. Casaria indicated the November meeting date will be determined and sent to the group as soon as possible after the meeting.

## Operating Principles

Marilyn Worrix gave an overview of the handout "Operating Principles" and indicated that the group will try and reach consensus rather than vote in order to make decisions. Noted that consensus is not necessary for the department to convey a decision to LCDC, but operating principles provide for results to be reported to LCDC. Discussion concerning the term 'consensus'.

## Policy Tasks for the Committee

Bob Rindy walked the group through the document 'Policy and Research Tasks Necessary for New UGB Rules' - this list describes both "policy tasks" and "research tasks" that are needed in order to draft new rules. He explained that the ten policy tasks listed in the document summarize requirements specified (or implied) in HB 2254; the group needs to reach a "policy" decision on each of these in order to write rules. The necessary rule work has been "bundled" into ten discreet policy tasks, but it is not necessary to approach these tasks in the order presented. Bob gave a brief summary of each of the ten tasks.

Bob noted that one of the tasks (not mentioned) is to actually write the new administrative rules, but that will probably occur over time, as we work through the various tasks (with a more concerted drafting effort toward the end). The rules would include a framework reflecting the "process" that is already described in HB 2254, but with many more detailed provisions and clarifications that must be filled in by rules.

Bob also noted that one of the tasks is optional, the land exchange task (# 10 on the list).

Carrie MacLaren clarified that today the department wants the group to make sure today that we've captured all the required work and make sure we have correctly described the tasks.

Damian Syrnyk asked about task 3; should it be listed later in the process because we need to be able to demonstrate what is inside/outside of the UGB during the process. Response: Bob noted that part task 3a is at the beginning; indeed 3b would occur later, but this was bundled with committee work on task

3a because it seems very likely there would be a similar methodology and process for determining land capacity, infill whether it is inside or outside.

Mary Kyle asked where the group would discuss encouraging an adequate supply of serviceable lands. Bob Rindy responded that in sketching out task 4, we assumed we'll need to define what is/not serviceable and what it means. MK indicated we need factors to encourage cities to have serviceable land. Task 4 is where we should get into this but the summary should emphasize "serviceable." Or perhaps this needs to be expressed as an individual subtask under task 4.

Jeff Condit raised the question of what do we mean by 'factors' and how are they applied? We need to determine what the law meant by that. Mary Kyle says it is already defined in case law and if we don't mean that definition then we should use a different word. Richard Whitman indicated that in drafting the legislation the current (case law) meaning of the term 'factor' was intended.

## Research Tasks

Carrie MacLaren walked the group through the research tasks portion of the hand-out 'Policy and Research Tasks Necessary for New UGB Rules'.

She also explained an additional two months needs to be added to the estimated time period for each research task to allow for the procurement period necessary to contract with outside experts.

Stephan Lashbrook suggested that there be outreach to small cities all over the state as we get into research task 6; cities may want to participate as we research costs of adding serviceable land with respect to infrastructure to meet the need. Many cities are at a point where they can grow only by making major infrastructure investments, such as when a treatment plant is almost at capacity.

Erin Doyle: Regions must be established first – do we need a research task to do that? What if we want to change regions later.

Peggy Lynch has concern about whether the 2008 recession means that data determined under research task 2 may not be accurate for looking to the future – concerned about how much we would rely on past trends rather than future. In research task 3 we should be talking about the demographics for the future not the past. Carrie MacLaren responded that these details and the frame of reference for each task will have to be determined as we get into those tasks.

Damian Syrnyk asked whether the research will get to the 'yield' we might get for particular rural residential areas. Richard said indeed yield of particular areas are what was intended by HB 2254.

With respect to regions, Mary Kyle suggests it may be useful to look at ways in which regions are already defined in law. It may or may not give us something to start with. Also look at the size of cities - are there common divisions by size of cities in other agency's (ODOT) rules? It would be useful to have any local gov research already completed as to whether land already in the UGB can be serviceable or could be - City of Salem perhaps, since they have a system of servicing by areas within UGB. Regarding infrastructure and yield, look at infrastructure costs and financing comparisons; not really looking at

inside/outside issues but look at the infrastructure costs of inside vs outside (i.e., is the only way to get financing to add land or can that be accomplished on land already in?)

Jon Chandler mentioned research tasks 3 and 4 might be able to use some research being done by metro on housing needs and market analyses. It would be “a high level in-depth analysis” and may provide good data points to utilize.

Jim Johnson warned that determination of regions may have an effect on the research for determining conversion of farm/forest land; we should take this into consideration when determining regions. Warned that we may have a data problem for certain regions. Bob Rindy reminded that we’ll need data by regions since many of the “policy tasks” mention regions.

Richard Whitman indicated there may be some INR data about regions generated as part of the SageCON project.

Kim Travis asked about common metrics regarding cities “growing” or “not growing”. Response: the legislation uses the term population growth, so we are probably limited to that definition. DLCDC will provide an updated list of growing cities.

Carrie MacLaren indicated DLCDC intends to start with research tasks 1 and 2, “fairly soon.” But if the group has input and suggestions as to the order of research tasks, that may change the timeline.

Peggy Lynch suggested that the department share the scope of work for the contracts with the committee prior to sending it out for bids.

John VanLandingham said the “fair housing group” is doing basically the same research as described in research task 7. He also mentioned the previous Jon Chandler/Mary Kyle list of things that can be done to encourage affordable housing.

Damian Syrnyk suggested, for task 7, the annual state of the nation’s housing report (Harvard design school). He indicated he would share it with the group.

Bob Rindy suggested setting out subcommittees for each of the research tasks. He asked the group to let DLCDC know what they think, are interested in and any other feedback.

Marilyn Worrix asked if everyone agrees that subcommittees are necessary. Carrie MacLaren added that additional people who have additional expertise can be added without adding to the size of the UGB-RAC itself. Mary Kyle added that others from the same organization may be able to attend those subcommittee meetings.

## **Suggested Timelines for Rulemaking**

Bob Rindy explained the handouts that show two timeline options for completing the work of the committee, one concluding in 2015 and the other concluding in 2016. Bob explained that the legislation will not take effect until 2016, and PSU forecasts will take four years to complete. However, in the

workgroups drafting legislation last year the general idea was to complete the rulemaking in 18 months from the date the legislation was enacted. That changed with the final legislative drafts, which indicate that the law implementing key provisions of the new process won't take effect until Jan 1 2016. However, the department wanted to provide the group with an option to complete work in 18 months, as well as an option that corresponds to the final 2016 effective date of the new law. Bob indicated that one of the outcomes needed today is a decision as to which date to aim for.

Jon Chandler suggested the 2015 timeline is too ambitious. He noted that even so, the 2016 timeline option will mean that the work would be going on in the middle of the 2015 legislative session and the group will likely lose half of its members during that time.

John VanLandingham says 2016 is better because there are a lot of complex issues involved in the process. There also needs to be time allotted to bring the "new" people up to speed. He also asked what additional work the staff at DLCD needs to focus on. Jon asked what other state agencies have going on that may conflict with other individual's calendars and workload.

Jerri Bohard says the rulemaking always takes longer than we anticipate so we should not push too hard on the date, but we should not move too slow either.

Damian Syrnyk indicated he also leans toward the 2016 timeline.

After discussion, the committee agreed that the department should go with the 2016 timeline.

Bob Rindy suggested that the order of policy tasks listed is not necessarily the order in which they need to be pursued. He asked for feedback from the group regarding the order tasks, noting that it's important we get through all ten tasks and start right away but on some we'll need to wait because we won't have the data ready.

Jim Johnson said so much of the research will be based on how the regions are defined that region definition needs to be taken care of first. Richard Whitman said whatever boundaries are decided for regions, we want to follow county lines to avoid any political issues.

Jeff Condit added that when thinking of regions "what do the people in the "region" think their region is" keep that in mind. Jeff Condit added that he would suggest the policy tasks should be taken in the order they are listed.

## **Other items**

Meeting times feedback about whether 2 or 3 hour meetings are needed. The group agreed to three hours.

Meeting in Wilsonville would be good half-way point since many RAC members are Portland based (City of Wilsonville offices or other such as Nurserymen offices, also mention of the Food Innovation Center Dept. of Ag in Portland). If Wilsonville, meetings would need to be scheduled 1:00 to 4:00 (or consider having a working lunch i.e., meetings from 12-3).

Pamela Barlow-Lind asked about how to make this work with the tribal processes and how to integrate tribal representation in the local government process. She was happy to see a discussion about unified planning among the tribes.

There was a brief discussion about the goal being consensus from the group in an advisory role to the commission (commission makes the final decision. There is also a staff/agency report to the commission which theoretically could differ from the recommendation made by the advisory committee but DLCD will strive to fairly report the RAC recommendations.

## Agenda for Next Meeting

Based on feedback so far, Carrie suggested the following items are tentatively on the agenda for the next (November) meeting:

- Determine boundaries of Regions
- Subcommittees – determine which subcommittees would be needed
- History of HB 2254 - bring “newcomers” in the group up to speed
- Land Use 101 (because there are some non-land use junkies in the room)
  - Carrie suggested perhaps on an individual basis
  - Richard suggested a couple additional hours that are optional tacked onto the front end of the next meeting to do the history/land use lesson
  - Provide link to previous website
- Research Tasks

## Tasks

- Carrie asked the group to email her with any data sources or research that may be useful to the group and the project, that may already be available, and ideas about additional research tasks
- Marilyn Worrix suggested the group send links to interesting research/data/documents