



**Department of Land  
Conservation and Development  
Affordable Housing Work Group**

**MINUTES**

Meeting 9

February 11, 2009

1:00 PM – 3:30 PM

Agriculture Building (DLCD)

635 Capitol St NE, Salem

Basement Hearing Room

**Work Group Members Present**

John VanLandingham, LCDC (Work Group Chair)  
Janet Byrd, Neighborhood Partnership Fund  
Jon Chandler, Oregon Building Industry Association  
Shawn Cleave, Oregon Farm Bureau  
Bob Gillespie, Oregon Housing and Community Services  
Jana Jarvis, Oregon Association of Realtors  
Allen Johnson, Johnson & Sherton PC  
Nick Lelack, City of Redmond (by telephone)  
Mary Kyle McCurdy, 1000 Friends of Oregon  
Martha McLennan, Northwest Housing Alternatives  
Larry Medinger, Oregon Housing Council (by telephone)  
Don Miner, Oregon Manufactured Housing Association  
Ken Yates, Oregon Bankers Association  
Pat Zimmerman, Citizen Involvement Advisory Committee (by telephone)

**DLCD Staff Present**

Gloria Gardiner, Urban Planning Specialist  
Angela Lazarean, Urban Planner  
Bob Rindy, Senior Policy Analyst/Legislative Coordinator

**Interested Persons Present**

Debbie Aiona, League of Women Voters of Oregon  
John Fletcher, Oregon Housing and Community Services  
Mike Foote, Foote Development Company  
Robert Liberty, Metro  
Linda Ludwig, League of Oregon Cities  
John MacInnis, Cascade Community Development

**Meeting Materials**

[Agenda](#)

## **Agenda Item 1 – Opening Remarks from the Chair and Work Group Comments**

Chair VanLandingham convened the meeting at 1:00 p.m. and welcomed the work group.

Bob Rindy advised the group that House Bill 2225 is scheduled for a hearing before the House Sustainability and Economic Development Committee, chaired by Tobias Reed, on Thursday, February 19, from 1:00 to 3:00 p.m. The hearing had been scheduled for February 10, but was delayed at the request of the department to get input from the work group.

Chair VanLandingham reminded the work group that the bill is jointly sponsored by the department and the Oregon Housing and Community Services Department and that the Oregon Housing Commission's chair, Larry Medinger, is a strong supporter of the bill.

John Fletcher responded that OHCS staff are not land use planner but support a pilot project to encourage affordable housing.

Larry Medinger advised that OHCS could help with compliance and enforcement of Goal 10 by helping cities acquire land for needed housing.

## **Agenda Item 2 – Review Minutes from Previous Meeting**

Mary Kyle McCurdy and Gloria Gardiner recommended minor changes to the minutes from the previous meeting.

## **Agenda Item 3 – Review House Bill 2225**

Bob Rindy summarized the bill as allowing up to five pilot projects in up to five cities to provide a site of up to 50 acres in size, either inside the urban growth boundary (UGB) or through an expedited UGB expansion. The commission would adopt rules in response to the bill. He stated that the entire site would not need to be used for affordable housing, but that such use must be on the plan and zone maps. If rezoned, the property would have to be removed from the UGB. Finally, the bill includes a sunset provision and a requirement to report to the legislature on the effects of the bill. He also clarified that sites authorized under the bill could not be located on high-value farmland.

Chair VanLandingham advised that the report to the legislature would probably be due five to six years after the enactment of the bill.

Mary Kyle McCurdy suggested that there should be sideboards in the bill for the commission's determination of the definition of "affordable housing," as the commission's authority is too broad under the current language with the definition not even narrowed to mean home ownership. She stated sideboards are needed to

provide justification for a UGB expansion. She also suggested that “site” is too narrowly defined.

Martha McLennan and John Fletcher advised that there are different definitions of “affordable housing” in federal Housing and Urban Development standards and OHCS rules. Martha McLennan recommended that the definition reference the greater of either local median income or statewide median income. Bob Gillespie responded that statewide median income is preferable.

Al Johnson suggested that “dedicated to affordable housing” also is too broad with too many unknowns. He recommended that both terms be defined in the commission’s rules, and that the commission have authority to define all terms not listed in section 3.

Chair VanLandingham advised the work group that the pilot program needs to be defined broadly to cover different situations.

Don Miner agreed that the bill should be as flexible as possible to allow for mixed income development onsite in order to be able to finance infrastructure costs. He also advised that “manufactured structure” means a single family dwelling manufactured to meet federal standards and does not include mobile homes, which have not been built since 1976.

Bob Rindy suggested that the first part of rulemaking in response to the bill be focused on project-selection criteria, and stated that cities nominating pilot projects will need to amend their codes to implement the program. He questioned whether to split the rulemaking in to two phases and whether to include amendments to Goal 10.

Al Johnson suggested clarifying divisions 7, and 8, in the rulemaking, but not requiring cities to amend their codes before they could participate in the program. He also suggested a rulemaking deadline of January 2010.

Mary Kyle McCurdy stated that both she and Jon Chandler agree on the need to amend rules to require reasonable satisfaction of affordable housing needs within existing UGBs before expanding, and to require including affordable housing in UGB expansions. She recommended that such amendments be made prior to the rulemaking in response to the bill.

Al Johnson stated that the amendments he recommends would implement court decisions and commission orders and should be made prior to the rulemaking in response to the bill, though cautioned that affordable housing needs cannot be met within existing UGBs because of the ban on inclusionary zoning.

Mary Kyle McCurdy suggested amending the bill language on page 1, line 19–20, to read “select up to 5 pilot projects.” Pat Zimmerman responded that those lines were not clear as to whether plan amendments are required. Bob Rindy replied

that the provision concerns Goal 14 and not Goal 1 and that Legislative Counsel does not allow citing to goals in legislation.

Shawn Cleave recommended adding a “window of opportunity” for applicants, while Chair VanLandingham questioned including a sunset provision for the commission to pick pilot sites.

Bob Gillespie advised that “concept plan” on page 1, line 29, is vague and should be defined.

Chair VanLandingham and Bob Rindy suggested deleting “site selection” from page 1, line 23, and leave as “a process.”

Al Johnson cautioned that section 4(b), page 2, lines 2–11, will engender litigation and enable opponents to stop projects, though Bob Rindy responded that the provision means the commission’s process rules must meet the specified criteria. Jon Chandler agreed with Al Johnson that the provision read as if it applied to local jurisdictions. Bob Rindy suggested amending page 1, line 23 to read “the commission’s rule shall establish...”

Mary Kyle McCurdy stated that “reasonably likely to provide affordable housing”, page 2, line 3, is too board should be amended to require each site to provide affordable housing. Al Johnson responded that “dedicated to providing” is an impossible standard.

Bob Rindy advised that “reasonably” will be deleted from (A) and (B), page 2, lines 3–6.

Chair VanLandingham suggested deleting “concept” from “concept plan,” page 1, line 29.

Bob Rindy stated that allowing cities to dedicate sites inside UGBs means that they do not have to comply with ORS 197.309’s inclusionary zoning prohibition (section 4, subsection 8).

Robert Liberty suggested that the commission could authorize the conversion of employment land inside a UGB to affordable housing.

Mary Kyle McCurdy suggested deleting “may” from “may include price range” and including “rents.”

Lerry Medinger supported allowing sites up to 50 acres in size, which Martha McLennan recommending allowing sites up to 5 acres in size. Bob Gillespie responded that funding availability will determine the number of multi-family units built and that 50 acres is a reasonable size for the whole site. Robert Liberty replied that 50 acres seems excessive and could result in a large subdivision of large, expensive lots with few affordable units. He recommended prohibiting such in the language of the bill.

Larry Medinger advised that developing 15 percent of a site with market-rate units would finance affordable units on the remaining 85 percent. Janet Byrd stated that inclusionary zoning in California requires 20 percent affordable units.

John Fletcher cautioned that the bill is missing evaluation of the pilot projects. Al Johnson responded that Mike Foote provided evaluation ideas.

Bob Rindy questioned whether to define ‘mixed’ as used at page 2, line 24. He also questioned whether a city could expand its UGB through the expedited process, without a needs analysis, if it already had a 20-year supply. Robert Liberty responded that the effect on the needs analysis during the next periodic review concerns him because the pilot project will affect the land supply and thus the needs analysis. Bob Rindy replied that the bill does not apply ORS 197.296 cities. Al Johnson also replied that exempting pilot projects from a needs analysis would be eliminating a substantive requirement and not just creating an expedited process.

Chair VanLandingham asked Bob Rindy to detail which steps of the UGB amendment process would be skipped in the expedited process. Mary Kyle McCurdy responded that the steps of the UGB amendment process are there for a good reason and should not be eliminated for the sake of developing affordable housing.

Martha McLennan suggested that “restrictive agreements,” page 3, line 4, is too narrow.

Bob Gillespie questioned the meaning of “government assisted,” while Chair VanLandingham commented that ORS chapter 197 includes a broader meaning. Bob Rindy responded that he would review the language of ORS chapter 197.

Martha McLennan suggested that a 50-year restriction is acceptable for rental units but not for owned units. She questioned how to restrict the sale of owned units at an unaffordable price. Bob Rindy questioned whether page 3, line 20 addresses the issue. In response, Martha McLennan questioned how someone would qualify to purchase a unit. Chair VanLandingham and John Fletcher offered to work on the language.

Jon Chandler suggested that the reference to ORS 197.309, page 3, line 21, is unnecessary if the program is voluntary; he offered to work on the language. He also stated that it is important to do other things to encourage affordable housing, such as those items on the list provided by him and Mary Kyle McCurdy at the previous meeting.

Chair VanLandingham summarized the requirements provided by Mary Kyle McCurdy as follows: (1) show a need for affordable housing; (2) local governments must adopt certain measures; and (3) provide how to avoid conversion.

Mary Kyle McCurdy stated that all communities can show a need for affordable housing and meet the first requirement. Martha McLennan responded that cities should not be required to show need. Chair VanLandingham replied that the key determination is whether a city is doing all it can to accommodate affordable housing within its existing UGB.

Martha McLennan questioned how to make sure pilot project development is appreciably more affordable than what is currently being built. Bob Rindy suggested that the language could be rewritten to address different situations in different communities.

Robert Liberty suggested figuring out a way to provide affordable housing as part of the normal UGB expansion process.

Bob Rindy cautioned that ORS 197.296 may limit the commission's authority to expedite the UGB amendment process and questioned whether the bill should be limited to cities less than 25,000 outside of Metro only. Al Johnson responded that any city should be eligible for the pilot program while McLennan suggested excluding Metro. The work group agreed to limiting the pilot program to cities outside of Metro.

#### **Agenda Item 4 – Discuss Direction Going Forward**

The work group did not specifically address this item.

#### **Agenda Item 5 – Discuss Future Meeting Dates, Agenda and Member Tasks**

The work group scheduled its next meeting for Monday, February 23, 2009, from 2:00 to 4:30 p.m.

#### **Public Comment**

Robert Liberty from Metro participated in the discussion.

#### **Member Tasks** (not necessarily due at next meeting)

Jon Chandler

- Clarify reference to ORS 197.309, page 3, line 21.

John Fletcher

- Work on language detailing how someone would qualify to purchase an affordable housing unit.

Bob Rindy

- Detail which steps of the UGB amendment process would be skipped in the expedited process.

Chair VanLandingham

- Work on language detailing how someone would qualify to purchase an affordable housing unit.