



Deschutes County Board of Commissioners  
1300 NW Wall St., Bend, OR 97701-1960  
(541) 388-6570 - Fax (541) 385-3202 - [www.deschutes.org](http://www.deschutes.org)

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## MINUTES OF WORK SESSION

### DESCHUTES COUNTY BOARD OF COMMISSIONERS

**MONDAY, APRIL 6, 2015**

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*Present were Commissioners Anthony DeBone and Alan Unger; Commissioner Tammy Baney was out of the office. Also present were Tom Anderson, County Administrator; Erik Kropp, Deputy County Administrator; Dave Doyle and Laurie Craghead, County Counsel; and Nick Lelack, Matt Martin and Peter Gutowsky, Community Development. No representatives of the media were in attendance.*

*Chair DeBone opened the meeting at 1:30 p.m.*

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#### **1. Discussion of HB 2229 – LCDC Rulemaking.**

Peter Gutowsky and Nick Lelack referred to their staff memo, giving background on this issue. It was a serious debate at the time. DLCD said they had problems tackling this without sideboards and without input regarding the southern Oregon pilot program. There was a letter sent to the Director regarding rulemaking in this situation. Thus far, not much has happened.

Next year's work program could address this in relation to the Haner Park problem, and other locations with a similar problem. Otherwise, a non-resource lands program is probably not going anywhere. Staff can get feedback from the Planning Commission and the public if the Board desires. They have exhausted all possible options at this point.

Nick Lelack said that they have provided a proposal regarding HB 2229. The County could still go forward and develop a non-resource work program, since it appears nothing else is going to happen.

Chair DeBone asked what the mission of this proposed change is. Mr. Lelack replied that they went to the Comprehensive Plan, which is meant to accurately designate property and correct errors. They can take the non-resource lands path or a couple of others. Five and ten acre living is kind of what people want, and there will be pressure for this ongoing.

Commissioner Unger supports the draft letter and the work plan. Something needs to be done and it is unlikely that an individual owner will take on the work and expense of this. He feels the non-resource lands issue needs more discussion before making widespread change. If you allow a little, where does it stop?

Mr. Lelack acknowledged that there is concern about the outcome. Submitting the letter will still require this is answered at some point. Mr. Gutowsky said that the rulemaking committee would have a lot to say about how this should be addressed under Goal 5. The Planning Commission consistently voiced concern about litigation and how to handle the unknowns.

Tom Anderson said that the pilot programs are not making much progress due to the economy, and the Big Look was heavily discussed before as a pushback to state land use rules. The County wanted to use one small part of this bill to help a specific area. It seems DLCD has gotten away with doing little and there needs to be more pushback. Doing it without rules is a risk, but they don't seem able to get any rules or guidance from DLCD staff. There needs to be a way to carve out a little for this reason. It could be a more geographic or systemic approach with the proper criteria. If it were not open to everyone, it would be less contentious.

Mr. Lelack stated that there is a meeting later this month, April 17, 8 AM until about 2 PM, with representatives of DLCD. He would like to discuss just this specific situation. He would rather not force it but something needs to happen.

Mr. Gutowsky noted that they could also try to implement HB 2229 without their help, to get DLCD involved that way. Mr. Anderson stated there are candidate properties that certainly fit, as platted lots within an area that can be shown as having clear thresholds.

Mr. Lelack said the letter is one option, or they can apply for a technical assistance grant from DLCD to help with the work plan in this regard. Mr. Gutowsky stated that anyone could say their property is misclassified, so it needs to be determined how to handle this situation ahead of time. The resources could be through a grant, rulemaking or working with DLCD staff.

Commissioner Unger wants to see this proposed at a meeting. Mr. Anderson stated there should be talking points. Mr. Gutowsky said they will have to ask the Board for input on the next work plan. The only comments they have heard were from Haner Park owners.

Four or five other developments may have a similar problem, but have not made their concerns known. The property owners could band together to make a Goal 4 exception regarding forestlands, since it is a platted subdivision and highly developed. Mr. Anderson stated that the Goal 4 exception was tried years ago, but it required a lot of expensive work.

Mr. Gutowsky said that there has to be committed infrastructure and this can help change it to rural residential, since that is the use today. This could be a pilot program starting with Haner Park but DLCD says that it is not a suitable situation for HB 2229. DLCD staff is just responding that there is no clear path forward. They also seem to start with 'no'.

Under the status quo, the County gets many applications for non-farm dwellings or partitions; more than any other county. This trend is increasing. Chair DeBone stated that this development was before land use. Mr. Anderson stated that it cannot be one size fits all in the State, leaving the counties too paralyzed to do what is necessary. Mr. Lelack feels the County has exercised extraordinary patience, and it is time to do more.

## **2. Discussion of Revised Medical Marijuana Dispensary Operations.**

Will Groves said there was a moratorium on dispensaries established by the Board last year, which ends on May 1. The Board needs to decide whether to regulate and if so, how. The Planning Commission met to provide some recommendations.

Staff chose to take a more generalized approach and refer to State standards. This allows for the public process and testimony, and also to be able to comply immediately if State standards change.

There are some specific siting standards. Mr. Groves explained these (referring to a staff memo). One version relates to EFU zones and the other does not. State law does not allow dispensaries in the EFU zone although this was part of staff's original proposal. The Planning Commission prefers they not be in the EFU zone and also recommended shorter hours of operation from 7 AM to 10 PM, to 10 AM to 7 PM.

Mr. Lelack presented a map showing which areas that might allow this use. There is a 1,000-foot buffer from schools. This excludes much of Sunriver Business Park and much of the commercial areas of Terrebonne and Tumalo. The State will oversee most of the siting first.

No one knows how this will relate to recreational use later. Sunriver Resort has its own rules and may not allow a dispensary in their commercial center. Mr. Lelack said the Planning Commission asked if is like a setback or the entire parcel. It is felt that a part of the property might be used if it is outside of the buffer area.

They looked at commercial, mixed use and industrial areas, excluding EFU and the buffer. There are three rural industrial, rural service and commercial areas where this might be allowed.

Laurie Craghead said if the Board adopts the state-supported version, they can adopt by emergency the same day. Otherwise, there would be an open timeframe when all kinds of chaos could happen. There will be site plan review required with any application. This does not relate to marijuana grow operations at all. Mr. Lelack stated that a dispensary could be in place and if a school was added later, the dispensary could remain. The use goes with the land.

### **3. Other Items.**

Mr. Lelack said two Planning Commissioners will term out this year, Todd Turner and Christen Brown. He would like to begin the recruitment process soon.

He said they have always had two representatives from the Bend area, with the others at large. Code says that members shall represent the various geographic areas of the County, with two from Bend, one from Tumalo and two at large who are from south County, one from Redmond and one from Sisters.

In the past, they have not been specific about having a member from Tumalo; they instead advertised for the two at-large members. Code looks at the townships. He asked if they should recruit specifically from the Tumalo area. However, they could still pick someone from Tumalo as an at-large person. The Board supported leaving it open as at-large, since that could still conceivably include someone from Tumalo.

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Erik Kropp presented the AOC invoice, which includes annual dues and voluntary dues. Commissioner Unger noted the increased amount and wondered about the value of the different categories. He also asked about whether they could support specific programs. Mr. Kropp will speak to Commissioner Baney about this and bring it up again at the Wednesday work session.

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Chair DeBone asked about the Bill regarding biomass. Commissioner Unger said he has had discussions regarding this, and some communities with air quality concerns might be supportive of biomass if it was included. Solar has had its time to mature, and it is time for other ideas to be considered. And, how many more public buildings will there be for the 1.5% biomass use. Chair DeBone said that solar requirement keeps other ideas from being considered.

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Regarding the EDCO meeting regarding the State of the University for OSU-Cascades, Chair DeBone asked about the County buying a table for \$250. Mr. Anderson said this could be opened up to department directors.

*Being no other items discussed, the meeting was adjourned at 3:05 p.m.*

DATED this 4<sup>th</sup> Day of May 2015 for the  
Deschutes County Board of Commissioners.

Anthony DeBone  
Anthony DeBone, Chair

Alan Unger  
Alan Unger, Vice Chair

ATTEST:

Bonnie Baker  
Recording Secretary

Tammy Baney - absent -  
Tammy Baney, Commissioner



## Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005  
(541)388-6575 FAX (541)385-1764  
<http://www.co.deschutes.or.us/cdd/>

Date

Mr. Jim Rue, Director  
Oregon Department of Land Conservation and Development  
635 Capitol St. NE, Suite 150  
Salem, OR 97301

### Re: HB 2229 / LCDC Rulemaking

Dear Mr. Rue:

House Bill 2229, Section 2(b)(B) directs the Land Conversation and Development Commission (LCDC) to adopt rules that,

*Consider the variation in conditions and needs in different regions of the state and encourage regional approaches to resolving land use problems.*

The Deschutes County Planning Commission [add BOCC if they concur] respectfully requests LCDC initiate rulemaking to implement the legislation and clarify processes for:

1. Updating farmlands and forestlands for land use planning;
2. Phasing;
3. Regional approaches to resolving land use problems;
4. Non-resource lands containing ecologically significant natural areas or resources;
5. Carrying capacity of the lands; and,
6. Significantly adverse effects.

Since the law took effect, Deschutes County has continually expressed interest in implementing HB 2229, also known as the "Big Look Bill," as evidenced by its participation in a 2010 Association of Counties panel discussion with state agency officials and subsequent conversations with the Department of Land Conservation and Development (DLCD). Most recently, Deschutes County requested input on a phased approach and clarification of key issues relating to five pre-platted subdivisions with farm and forestland designations. Rob Hallyburton, DLCD Community Services Division Manager wrote in a letter on January 8, 2015,

*While we do not find that the county must review all land in the county, we would be most inclined to approve a work program that includes some major region defined by geographic characteristics rather than by property or subdivision boundaries. Additionally, the county may not pre-determine specific areas for review, as subsection 5(3) requires the county to provide an opportunity for all farm and forest land to be considered. If the county receives a request to review an area that is not included in the original proposal, the county must review it. As explained above, we believe that this*



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## **WORK SESSION AGENDA**

### **DESCHUTES COUNTY BOARD OF COMMISSIONERS**

**1:30 P.M., MONDAY, APRIL 6, 2015**

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1. Discussion of HB 2229 – LCDC Rulemaking – *Peter Gutowsky*
  
2. Discussion of Revised Medical Marijuana Dispensary Operations – *Nick Lelack & Matt Martin*
  
3. Other Items

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PLEASE NOTE: At any time during this meeting, an executive session could be called to address issues relating to ORS 192.660(2) (e), real property negotiations; ORS 192.660(2) (h), litigation; ORS 192.660(2)(d), labor negotiations; or ORS 192.660(2) (b), personnel issues; or other issues under ORS 192.660(2), executive session.

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*Meeting dates, times and discussion items are subject to change. All meetings are conducted in the Board of Commissioners' meeting rooms at 1300 NW Wall St., Bend, unless otherwise indicated. If you have questions regarding a meeting, please call 388-6572.*

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Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call (541) 388-6571, or send an e-mail to [bonnie.baker@deschutes.org](mailto:bonnie.baker@deschutes.org).

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*area must be a geographic area of the county and not individual properties or subdivisions.*

*Considering other aspects of HB 2229 not related to your question, the department has been unable to determine the nature and scope of the mapping error the county intends to address. It is not apparent why the areas the county has shared with the department were incorrectly zoned at acknowledgment, and this is a fundamental aspect of the bill. If the county chooses to move forward with a work program, the county will need to demonstrate that the HB 2229 process is an appropriate vehicle for addressing the county's needs.*

Based on Mr. Hallyburton's letter, there remain differences of opinion whether HB 2229 is targeted exclusively to properties with mapping errors or if it also applies to updating farm and forestlands designations based on changed circumstances. Without administrative rules, undertaking a work plan is fraught with legal uncertainty. It is also extremely difficult to gauge staffing resources and timelines.

Thank you for considering this request.

Sincerely,

TBD

Chair Tammy Baney  
Deschutes County  
1300 NW Wall, Ste 200  
Bend, OR 97701

Cc: tony.debone@deschutes.org  
alanu@deschutes.org  
Erik.Kropp@deschutes.org

Invoice no. 2015 AOC  
For the period of:  
Jan. 1 – Dec. 31, 2015

tammyb@deschutes.org

Description (see page 2 for descriptive narrative on Dues Categories)	2014	Amount
AOC General Fund Dues* 001 - 4500	24,164.32	\$25,226.63
Public Lands Fund Dues* 325 - 5000	5,699.61	\$ 9,219.44
Video Lottery Defense Fund Dues (voluntary dues) 001 - 4500	659.04	\$ 1,153.00
Forest Management Sub-Committee Dues 001 - 4500	2,079.84	\$ 2,298.01
PERS (Public Employees Retirement System) Alliance Dues (voluntary dues) 001 - 4500	3,785.48	\$ 3,669.68
AOC Veterans Fund Dues (voluntary dues) 001 - 4500	1,750	\$ 3,684.75
Total amount due:	charged: 3,685 # 38,138	\$45,251.52

\*payment of dues marked required for membership

Please direct inquiries to:

Kimi Wong, Fiscal Services Manager  
Email: [kwong@aocweb.org](mailto:kwong@aocweb.org)  
Ph: 503.585.8351

Please submit check payment along with  
a copy of this invoice to:

Association of Oregon Counties  
1201 Court Street NE, Suite 300  
Salem, OR 97301-4110

001 - 4500 : GF non-departmental  
325 - 5000 : Road

Invoice no. **2015 AOC**

For the period of:

Jan. 1 – Dec. 31, 2015

## Description Narrative for Dues

### **AOC General Fund Dues\***

General fund dues support AOC core operational expenses including finance, insurance, building rent, utilities and supplies. In addition, these funds help pay for legislative advocacy and policy development, district and steering committee meetings, communications efforts, and technical assistance to members.

### **Public Lands Fund Dues\***

Public lands fund dues allow AOC to carry out legislative advocacy on natural resource issues, foster communications between county governing bodies and individual agencies, and develop natural resources policy.

### **Video Lottery Defense Fund Dues (voluntary dues)**

Video lottery fund dues are dedicated to providing technical assistance and professional services related to the preservation of shared revenues. Dues are .2 percent of each county's video lottery revenues.

### **Forest Management Sub-Committee Dues**

This special assessment is directed to advocacy on federal forest issues. Funds allow AOC to coordinate with other national efforts, obtain professional services, and conduct communications campaigns on federal legislation. Dues are based on national forest receipts payments to each county.

### **PERS Alliance Dues (voluntary dues)**

AOC collects dues for PERS Alliance, a collaboration with LOC, OSBA, and SDAO to support policy advocacy and legal proceedings for labor and retirement fund issues. Dues are \$4.45 per full time employee.

### **AOC Veterans Fund Dues (voluntary dues)**

AOC created a stand-alone Veterans Steering Committee in 2014 to help support Oregon's 322,353 veterans. Income from this assessment will help fund dedicated staff for work on veterans' issues. Key issues include advocacy for increased state funding and support for the work of (CVSOs) - County Veterans Service Officers. Focus is on sustaining and expanding collaborative partnerships with the Oregon Department of Veterans Affairs. Dues are assessed based on the number of veterans per county @ \$.25 per veteran.

***\*payment of dues marked required for membership***