

## **Sustainable Land Use**

Presentation by Robert Emmons

Power Shift West

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What I want to do in the next 15 or 20 minutes is glance at the Eugene I knew when Tom McCall was governor in the 60s and 70s; look at the importance of Senate Bill 100 and how its foundation has been weakened over the last 38 years and suggest the rudiments of what I believe it will take to rise from the ashes of a failed economy and an abused environment.

Without the land use protections Senate Bill 100 established almost 40 years ago, Oregon long since would have gone the way of California and all the other states across the country providing open range to unbridled development. To our system of locally administered, state-regulated comprehensive plans and Urban Growth Boundaries we owe what's left of Governor Tom McCall's legacy.

I say what's left. For from its inception those whom McCall referred to as "the grasping wastrels of the land" have been crippling his land use program little by little, lot by lot. The truth is that county codes and state statutes have always suffered the slings and arrows of outrageous manipulation by development interests and complicit land managers and politicians.

For over 15 years LandWatch Lane County has been working with Lane County neighbors to protect farms, forests and natural areas, mostly outside urban growth boundaries, from sprawl and other impacts. Sometimes we've had to swallow hard while doing that because S.B. 100 puts us in the ironic and awkward position of defending agricultural and forestry interests whose practices, such as the use of toxic chemicals and clearcutting, run counter to sustainable land use and public health.

Be that as it may, the land itself is neutral and the soil on it essential to retain as resource, not real estate. Unfortunately, because Lane County's Land Management Division largely depends on building permit fees for its funding, long range planning is influenced predominantly by development interests: The more applications they approve, the more fees they generate for themselves. As a result county codes, like state statutes, are riddled with variances, exceptions and other amendments that favor development. Let's take a closer look at one example, the county's riparian ordinance.

In Lane County the riparian setback—the distance from the average high water mark—required for Class 1 fish-bearing streams is 100'; for non-fish-bearing streams it's 50'. Yet, the required distance is determined by zoning, not by the protection it provides, or should provide, for aquatic creatures and riparian corridors. The zoning of my property, F2, impacted forestland, requires a 100' setback from Class 1 Little Fall Creek. But up the road my neighbor, who's property is zoned rural residential, has to provide just a 50' buffer. Same waterway, same biotic needs.

But whether 100' or 50' applies, property owners are allowed to remove 25% of the vegetation in the setback and variances for building additions into the buffer are common. With little to no enforcement, egregious impacts, such as the removal of vegetation for views and the installation of destructive revetments, are rife.

Numerous scientific studies have determined one tree length, or 200', to be the minimum setback necessary for waterway protection. But last fall a sensible proposal generated by Eugene's local utility, Eugene Water and Electric Board (EWEB) for modest—and from our perspective inadequate—changes to protect the McKenzie River from the impacts of toxic chemical runoff and septic leakage from too many houses on too many small lots, was poisoned by an unruly mob. Backed by Oregonians In Action and Americans for Prosperity, an east coast right wing group formed by the oil billionaire Koch brothers, the crowd arrived at the public

hearing on the proposal—many of them bused in—to take the bully pulpit and demand their property rights over all. EWEB and the county beat a hasty retreat.

Present West Lane Commissioner, Jay Bozievich, was at the hearing campaigning, working the crowd in his red Tea Party shirt. When the mob forced the Pledge of Allegiance—not part of the Board’s protocol—the meeting was over and years of watershed research and the conscientious work of a citizen committee paralyzed.

When I came to Eugene 46 years ago, Tom McCall was governor and driving the beach and bottle bills, the cleanup of the Willamette River and a comprehensive land use program that would protect the incomparable and vulnerable landscapes he loved. I remember too well on a hot summer day the “NO SWIMMING” signs posted in the river where the Autzen footbridge is now—and the admiration and relief when those signs were removed. I was quickly learning that McCall was that rare leader who passionately walks the talk, who had the audacity not only to confront callous exploitation head on, but to succeed. I was proud to be an Oregonian.

At that time, just a few miles outside the heart of downtown Eugene in any direction you were into farm and forest land, into wetlands and open space. Eugene's population was about 54,000 and the university about 8000 when I was in graduate school. Now those populations have tripled, and farmlands and forestlands have grown malls and strip-malls, big box stores, sub-divisions, gated communities and estates, all of it dependent upon cheap oil and ready money for infrastructure.

Wildlife, as usual, have had to fend for themselves, somewhere out on the ever-receding periphery.

Outside the urban growth boundaries of Eugene and Springfield outlying communities, such as Lowell, Coburg, Veneta, Creswell and much of the lands in between, have swollen with retirees and with people financing their country living with Eugene and Springfield jobs. As a consequence, former open space, working farms, ranches and woodlots have become bedroom communities, and the air above them has grown fouler with increased CO2 emissions.

We're in the midst of an environmental and economic crisis, yet by and large it's been business as usual in Lane County.

Following a state mandate to provide a 20-year supply of buildable lands based on population projections, Eugene, Springfield and Junction City are presently considering expanding their urban growth boundaries. The buildable lands inventory required of counties and municipalities codifies what planners, administrators and most politicians believe in principle: that growth is desirable and can be accommodated, and if not desirable then at least inevitable. But multiple signs—toxic soil, air and water, depleted water and oil supplies, global warming and stressed and strapped overpopulations, to name a few—have been telling us loudly and clearly for a long time that growth has not been good to us or our environment. Yet growth is not inevitable; it's a matter of choice, a matter of policy. The buildable lands mandate, for instance, was not an edict from God but the political will of decision-makers; it can and must be eliminated by a more enlightened lot.

Some believe that growth can be smart. But “smart growth” is an oxymoron, an elaborate shell game requiring a Sophie’s Choice. Do we increase the density and destroy the architectural integrity and quality of life in historical neighborhoods, for example, or do we urbanize and suburbanize our rural lands? Continuing to pedal the growth machine perpetuates such double bind dilemmas.

Failure to recognize limits to growth on a finite planet feeds the same old paradigm that has made poisoned air, water and land a world-wide crisis—even as we continue to produce more of

us to administer the doses. Until we get off the growth machine and expand our minds rather than our beltways, we'll continue to chase our tails, digging a bigger hole for ourselves in the pursuit.

Where possible and appropriate we ought to shrink urban growth boundaries or, in lieu of that, create a critical lands overlay zone, to protect sensitive resource lands on the urban fringe—land such as that east of River Road near Santa Clara on the edge of Eugene where rich farmland important for local food security is gradually succumbing to subdivisions. There is at least a temporary choice other than a Sophie's: the redevelopment potential within existing urban growth boundaries that would satisfy state requirements, if not The Homebuilders Association, and meet local needs. Glenwood and the east end of Main Street in Springfield across the Willamette River from Eugene come to mind as examples.

Dwindling resources and climate change are apparently still too abstract, though, for most people to accept as prime motivators of social change. They haven't yet hit the wall, and they're not prone to exercise the precautionary principle.

But for those of us who'd rather hop out and seek a safer environment than unwittingly succumb, like the proverbial frog, to a slow boil, the sooner we introduce population, peak fossil fuels and global warming concerns into the land use conversation, the sooner we can effect some real deterrents on the ground.

Oregon's land use program, though woefully weakened by development interests over the 37 years of its existence, has maintained at least a semblance of the state's integrity. But it is an outmoded growth management model overrun by demand and undermined by a backlash of private property rights zealotry.

Development demands and private property rights came to a head in 2004 with the passage of Measure 37, a citizen referendum, subsequently reborn as the allegedly kinder and gentler Measure 49 in 2007.

The passage of M49, however, destroyed the foundation of land use planning in Oregon by conceding the public good of regulation of the commons to the self-serving "rights" of private individuals: That property owners must either be financially compensated to follow the law or the law must be eliminated or amended to accommodate the property owner. Though 49 lessened the potential impacts of 37, it nevertheless sold the farm. As a result, development impacts have increased, and have the potential to dramatically increase, sprawling onto formerly protected farm and forest land. Instead of the one house on prime farmland allowed in county comprehensive plans, for example, those qualifying for a M49 claim are permitted 3 or, in some cases, as many as 10 houses.

To be sure the economic downturn has been our biggest ally, likely resulting in fewer M49 and other development claims. But our biggest foes continue to be the stable of enablers—legislatures, county boards, city councils, administrators, weak regulations and little to no enforcement—bequeathing junk mortgages to future generations.

Big money from corporations and extreme right wing individuals such as the billionaire Koch brothers and Lane County's own Aaron Jones of Seneca Sawmill Company, among others, routinely buys political power and the bias of that power determines land use and abuse. For example, the Lane County Commissioners' newest member, Jay Bozievich, a Tea Party Libertarian/Republican, received \$6200 from Giustina Timber in 2010; \$9500 and \$12000 from Murphy Plywood; \$8500 from Hamilton Construction and \$13000 from Seneca Sawmill; as well as substantial sums from gravel mining companies and other industries. His fellow conservative commissioners, Stewart and Leiken, are supported by the same or similar exploitative industries.

All three recently voted to gerrymander the county's political districts in order to establish a super majority of four conservatives on the board in the next election. Earlier the same day they voted in favor of a resolution supporting a private water supplier, Willamette Water Company's, proposal to supply water from the McKenzie River to rural Pleasant Hill, Goshen, Creswell and Cottage Grove. None of these communities have a desire or a need for this water, and the intent of State Goal 14 is to prevent such speculative, urbanizing enterprises. Moreover, the McKenzie is a Class 1 waterway supporting endangered salmon and is the source of Eugene's water supply.

As Canadian author Maude Barlow reveals in her book, *Blue Covenant; The Global Water Crisis and the Coming Battle for the Right to Water*, the monopoly of dwindling supplies of water by private companies and governments is a world wide epidemic accelerating depletion and leading to social control and exploitation. The bald and unwanted attempt to control a rural water supply by Willamette Water Company right here in Lane County, granted a grotesquely excessive water right by Oregon Water Resources Dept, is being strongly challenged by WaterWatch of Oregon.

Thinking and acting ecologically—responsibly and compassionately—clearly requires a paradigm shift in the way a majority of us live and work and think, a revolution to depose the present king, Economy and all its corrupt minions and re-instate the environment to its rightful place in the natural order of things. We can start by holding—and cultivating—ground.

Discussing his innovative land use program with an NBC interviewer in 1974, Governor McCall said, “The Oregon Story is a hopeful force. I think it shows that the system can work and that people respond if there is leadership with imagination and guts.”

To do so, I believe, requires a language of the commons best served with all the passion, compassion and commitment to truth in story or narrative, the kind of tale Governor McCall was so fond of and good at telling. It's time to update Tom McCall's Oregon Story to meet the challenges of an overpopulated, exhausted and rebellious earth.

It's a new, but no less hopeful, narrative that must anticipate and take immediate measures to cure the ecological abuse fueling what author John Michael Greer calls “the long descent” of deindustrialization: The persistence in spite of stark and possibly terminal evidence to the contrary that we can sustain an economy premised on the unlimited use of limited resources.

Legislators and planners may begin by strengthening and enforcing land use regulations weakened by growth addiction and enabling politicians and administrators. But to do so they must:

- Move energy and climate consequences to the forefront of land use planning.
- Evaluate, as a condition for approval, the carbon dioxide and energy consequences of development proposals. Some of you may have seen the report in the Register Guard ( 11/4/11 ) about recent data that reveal an “unheard of monster increase” in global output of heat-trapping carbon dioxide.
- Eliminate non-resource related dwellings on farm and forest land.
- Foster the evolution of villages as seminal features of a steady state economy founded on a local food-local company system.

Surely, if these qualifications are part of Lane County's standard operating procedure, we can expect the adoption of a scientifically validated riparian ordinance, and to shrink our urban growth boundaries and reserve or reclaim the unbound land as open space and resource.

To accomplish these objectives and effectively address the population, climate and energy crises, state-regulated regional planning must be based on the natural limits of watersheds not the artificial boundaries of political jurisdictions.

Now, I realize that the Oregon Story, or at least the Lane County chapter, that I've been telling is not a very uplifting or hopeful one. But, when I look at your young, involved faces, and consider the Occupy movements occurring country-wide and the increasing number of forums such as this one, I'm encouraged, confident that from your midst will come "the leadership with imagination and guts" to address and take steps to cure the environmental crises of our time by striking at their root causes: Overpopulation and overconsumption.

But a word of caution: Before going to work, best put your own house in order. Conservation begins at home.

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**Addendum:**

The moderator asked the two panelists for one image they would offer land use panel attendees that illustrates their concerns and suggests the place to look for solutions.

My fellow panelist, Bob Stacy, former executive director of 1000 Friends of Oregon, included an illustration, in his Power Point presentation on "Smart Growth" transportation fixes, of an urban street with a couple of apparently empty trams on it, bordered by a wide, curbed bicycle lane with one bicyclist on it. Overhead passed a network of overpasses with no apparent vehicles on them. This was apparently intended to represent the smart transportation choices that will sustain us in "livable neighborhoods" in "livable cities."

I'd like to borrow that illustration and inject a little on-the-ground, ungreenwashed reality into it by adding an essential ingredient that is conspicuously missing: people. Lots of them. In my illustration they'd be hanging out of the trams and all but falling into the cars, trucks and other motorized traffic jammed alongside. The bicycle lanes would be filled as well. And overhead traffic would be bumper-to-bumper on the freeway overpasses with at least one semi hanging over a rail—a routine occurrence on any given day in Houston, Texas—saved from falling into the "smart" street below by the four tires on its rear axle.

With no curbs on population no amount of curbed bicycle lanes will save cities from ecological and economic stagnation and suffocation or—as seen in what I would offer as a companion image—the surrounding countryside of farms, forests, natural areas and open space from sprawl.