Draft Testimony for Linn County Commissioner John K Lindsey, 7 March 2013

Honorable committee members and Chairman Roblan.

My Name is John Lindsey. I am a commissioner from Linn County. A couple of committee members hear, I know regularly tour part of our county from I-5 on their way here. I have served in the capacity of county commissioner since my election in 1998. During that time I have been involved in many issues of land use and served on the Local Officials Advisory Committee to the Department of Land Conservation and Development for 9 years.

I am very happy to have an opportunity to be before you and testify in regards to an important land use and economic development issues contained in the proposed bill SB 502.

The bill as proposed is to fix a couple of problems that have come to the forefront and to deal with them long term. I will break my testimony into the three main issues SB 502 deals with and try and to be brief.

I will first give a background sketch of these issues and why I am here.

Without going back to the origins, I will start with the fall of 2009. I received a call from a policy advisor with the Association of Oregon Counties. He told me that the DLCD had convened a workgroup that was operating and that it looked like it was about to take a negative turn when it came to Linn County Parks.

At issue was the Religious Land Use and Institutionalized Persons Act (RLUIPA) and court decision against the DLCD and Jackson County. The case, Young vs. Jackson County was a turning point for the department in regulatory administration. I have attached the case with the highlights.

In that case, it was decided that county planners under direction of DLCD had violated "equal terms" provisions of USC as highlighted in your packet on page 4.

The ruling was that a church or religious activity was being denied the opportunity of similar uses afforded to other activities. LUBA was affirming an earlier decision in 1000 Friends vs. Clackamas County. I have highlighted that on page 8.

In "Clackamas" because a community center was allowed in the zoning. Friends believed a church shouldn't be and that churches are not community organizations. I believe LUBA was correct in pointing out there is no difference in the impact of the use. Therefore, denying the use was a violation of "equal terms" as prescribed by Federal Law.

The reason I have attached the entire Jackson case, is because LUBA lays out the hypothetical of what would have to change to be able to discriminate against religious uses.

Armed with this decision, DLCD set out to work with various interests to instead write out new restrictions on allowed uses. That included Parks and Recreation.

I have attached a letter written by me as a result of these meetings dated May 26, 2010. The letter laid out my opposition to the process pursued by the DLCD work group.

The first proposed issue taken up in SB 502 is to restrict the ability of DLCD to pursue remedies for perceived problems based on religious views and relating them to parks. In America, that is a given.

The second issue is the restrictions placed on parks. In its rule making, DLCD decided that "no structure could exceed a 100 person capacity." State Fire Code sets that at 1 person every 7 square feet standing, and 1 person every 15 square feet setting. That equals 700 square feet and 1500 square feet respectively. A typical county storage building in a park is 1800 square feet.

Keep in mind, the average home exceeds 2,000 square feet. In addition, DLCD stated these structures cannot be located within a ¼ mile of each other.

Now, to put this into perspective, Linn County has 4 ranger residencies within 3 miles of, or in a UGB. Communities such as Waterloo, Foster, Scio, Mill City, Detroit, Idanha, and Lyons just to name a few, are not

growing anytime soon and probably will not fill their UBG's for at least 50 years.

A ranger's residence usually comes with equipment shops and storage. These are all next to each other. We also have public use amenities such as enclosed gazebos and cabins that are now in violation of these rules. Linn County also has a vigorous parks master plan and continues to grow. These plans also include construction of more amenities and ever-changing recreation requirements.

We have numerous recreation options and proposals in those plans. We have held numerous hearings and taken public input on building these plans, beginning 7 decades ago, right up to our last scoping hearings a couple weeks ago on redevelopment of Green Peter Reservoir. All of our plans are constructed publicly. These are local plans, locally made and in our case with many Federal and City partners.

This brings us to the 3rd issue, and that is the suggestion that Parks Plans now have to be part of a comprehensive land use document. Right now as I testify here, the DLCD has been holding meetings to further control those local parks plans. This would put DLCD in charge of our plans and define what recreation is acceptable or how it's managed. It is my opinion that it doesn't get much more far reaching than that. Also it takes intense amounts of money to manage these issues. Those plans are continually changed with flexibility, but kept open and have large community support.

Every time we do something we can count on DLCD to try and stop us. One example is one of our new Parks and DLCD's opposition to it. The letter attached, signed by Katherine Daniels is the first attempt to stop Linn County from continuing parks construction under the new DLCD RLUIPA rules.

The cat and mouse and State vs. County and Community continues with spirited debate.

I can only conclude it would appear we serve different constituents. Citizens require that counties provide recreation and parks. These uses continue to evolve and counties need to keep flexibility.

I thank the committee for their time in this matter, and look for your support in passing this bill.

If you have any questions, I will attempt to answer them.

Thank you.

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