APPEAL OF DIRECTOR’S DECISION TO APPROVE
SCAPPOOSE URBAN GROWTH BOUNDARY AMENDMENT
AGENDA ITEM 9
LAND CONSERVATION AND DEVELOPMENT COMMISSION
Thu/Fri, September 20-21, 2012

MARILYN WORRIX: Decision to approve the Scappoose Urban Growth Boundary Amendment. We are in general going to hear from local governments who are going to talk to us in kind of general terms and from staff. We are also going to hear in this public hearing from people who have appealed. We would ask that your responses be limited to what you brought up in your appeal. That's a requirement. So let's get started.

ANNE DEBBAUT: Thank you. Good afternoon, Madam Chair and Commissioners. I'm excited. This is the first time I've been before the Commission.

MALE SPEAKER: And you are?

MARILYN WORRIX: We like you there.

ANNE DEBBAUT: I was just going to say that. I'm Anne Debbaut and I'm Metro Regional Representative for the city of Scappoose and we are here on an appeal of the Director's decision to approve the City of Scappoose urban growth boundary amendment. And I'll provide an introduction for you and Tom Hogue our department's Economic Development Specialist is here also to answer specific questions. The City of Scappoose made their final decision regarding their urban growth boundary amendment in April of 2011 and this amendment expanded the UGB by approximately 380 acres, primarily to accommodate planned industrial growth around their airport and for airport-related employment. And in reaching this decision, the city updated its coordinated population forecast and adopted an economic opportunities analysis among other things. And it should be noted that they also had a local initiative that -- to require voter approval of the UGB amendment that was placed on their ballot in the fall of 2011. And the city's electorate did vote to approve the UGB expansion, at which point Columbia County resumed public hearings which they had begun earlier and proceeded to affirm the city's
decision and adopt the UGB amendment in October of 2011. The city submitted a jointly approved decision to the Department in February of this year and following the city's notice of decision, the Department received three letters of objection. One letter from 1000 Friends of Oregon which contained 11 different objections and one letter from a Mike Sheehan, who had one objection in addition to reiterating all of 1000 Friends' objections. We had another letter from approximately a group of 35 individuals who also reiterated the 1000 Friends' objections. So in total, we had 12 objections. And the department considered all 12 objections outlined in the letters and, however, disagreed with the issues raised and issued an order in June approving the submittal. As outlined in that Director's order in June approving the Scappoose UGB amendment, the Department concluded that the action to the City of Scappoose and Columbia County to amend their UGB complied with statewide planning goals and rules and it was based on the findings and conclusions in that order. And secondly, that the local decision did rely on an adequate factual base and a reasonable base on evidence in the whole record. A single appeal of the director's decision was subsequently filed in July -- just this past July by Pat Zimmerman and Michael Sheehan and is before the commission today. The appellants essential reassert their objection to the city's decision and claim that the city lacks adequate substantial evidence to support the UGB amendment and they also alleged deficiencies. Alleged deficiencies include the manner in which the city forecasted employment, land needs, allocated those employment lands, allocated the employment forecast, determined needed site characteristics for employment sites, and included area in the UGB for a runway expansion and for runway -- for airport hangars and area for a community college, and failed to consider certain industrial designated lands that were already inside the urban growth boundary. So the department reviewed the appeal, which contained 12 objections and determined that the substance of the objections remained unchanged from those previously raised and addressed by the Director's decision in June. We received no exceptions to the Director's report and therefore, staff still recommends
that the commission deny the appeal and approve the Scappoose UGB amendment as proposed. If you have any questions we're happy to answer any questions.

MARILYN WORRIX: Questions? Do you have anything to add, Tom?

TOM HOGUE: No, I thought I would wait till the other presentations and if there were questions at that time, we could do it.

MARILYN WORRIX: All right. Okay let's start by bringing up the city people.

MALE SPEAKER: Can everyone see that okay?

MARILYN WORRIX: I think so, yes. We also have something similar in our -- a smaller version. It's on the last page before your number 10 agenda item index. Yes?

JEFF BENNETT: Good afternoon, Chair Worrix, members of the commission. My name is Jeff Bennett and I'm an attorney with Jordan Ramis in Portland. We represent the city of Scappoose. With me here today are Mayor Scott Burge, to my immediate left, City Planner Brian Varricchione. To the mayor's left we also have with us Jerry Johnson from Johnson Reid Consultants and Economists, and Jessie Winterowd from Winterbrook Planning. As you may have seen in your written material, Scappoose is a city of about 6,700 people. For reference for those of you who are not real familiar with where Scappoose lies in the -- in the state, we're about 21 miles due northwest of downtown Portland. Interestingly enough, that's about the same distance from downtown Portland as the Hillsboro-Cornelius area, city of Sandy, and the city of -- of Canby, so we are fairly close approximate-wise to the city of Portland. There's kind of an interesting correlation between Scappoose, Hillsboro, and Canby. Each one of those three cities has a general aviation airport that has a runway that's about 5,000-feet long and that's important in this case because it does provide the city of Scappoose with a -- with a unique characteristic that a lot of other cities in the Portland metropolitan region do not have. And the interesting distinction between the Aurora Airport in Canby and the Hillsboro Airport in Hillsboro, and the Scappoose Airpark in Scappoose, the evidence in the record will reflect that most of the land associated with Hillsboro and Aurora has
already been developed and that most of the land adjacent to the airport in Scappoose has not. And you'll see that as the theme throughout our remarks here today that that provides an advantage, an economic advantage to the city of Scappoose that other jurisdictions simply don't have. As Ms. Debbaut indicated, the city's action added 378 acres to the UGB; 343 of those acres are designated industrial, 17 are designated public lands, and 18 are designated commercial on our newly adopted comprehensive plan map. As you can see from that map that's in front of you, the industrial lands principally are in the northeastern part of the city located adjacent to and east of the airport. Most of the commercial lands are located in the southwest and northwest portions of the city. As part of this process, and this oftentimes gets lost when you have the discussion about UGB amendments, a number of other policies were adopted by the city in conjunction with the amendment itself. We had adopted a brand new set of economic development policies. We revised our urban growth policies. We've updated our public facilities and services policies in order to reflect the decisions made to expand the UGB. The expansion is supported by a detailed infrastructure analysis that was prepared by OTAC and a transportation alternative study that was prepared by DKS and I'm sure you're aware of the work of DKS and OTAC. We're here today, of course, to answer the appeal that's been filed by two Scappoose area residents. We've reviewed your Director's decision. We've reviewed the staff report and we're in complete agreement with the conclusions that have set -- been set forth and we ask that you affirm your Director's decision. Our formal presentation will start with a few opening comments by Mayor Burge, be followed up by a presentation by Mr. Varricchione, who is going to address a number of the population forecast issues and the process that the city followed in -- in forecasting its -- its employment needs. And then I will conclude our formal presentation with a few comments about some legal issues that overarch most of the objections that have been filed today. There is a May letter in your materials, which we submitted to the LCD which responds to each and every one of the objections. We feel that that letter fully
responds to those objections and to the extent that you have questions about the contents of that letter, we're more than happy to answer those questions for you today. So with that, I'll introduce Mayor Scott Burge.

MAYOR BURGE: Good afternoon, Chair Worrix and members of the Commission. My name's Scott Burge. I am the mayor of Scappoose. I've been the mayor since 2007 and have been a member of the Scappoose City Council since 1999. We are -- and I'm happy to be here today. Took time off work to speak before you and to let you know that the entire Council embraces the direction that was charted by the adoption of Ordinance 816. And I understand that some will focus on the size of the UGB expansion. We believe the focus must start with the economic development policies we adopted with Ordinance 816. It is those policy choices that drove the Council's decision. It's decision regarding the size and location was what was the eventual outcome of those decisions for economic development not only for Scappoose, but the entire south county of Columbia County, which is one of the counties that is in dire straits as far as economic need for activity. And those choices were no accident. They are also looking back at our history, looking at the exhaustive economic analysis presented in our EOA and looking forward to determine what the city -- what we see as our city's future. We started the UGB amendment process in July of 2008 but what you have before you today really started over 25 years ago in what had become locally known as the "gravel wars". As you'll see in your materials, the bulk of the UGB expansion occurs on land east of the Scappoose Industrial Airpark. The airport is located within the city's limits at the northeast edge of Scappoose and is owned and operated by the Port of St. Helen's. The airport has a long -- has long been the economic engine in Scappoose and Columbia County. Adjacent to the UGB is a large parcel of land, which in the 1980s, was sold to gravel mining interests, those interests outlining approvals from Columbia County. Due to the potential adverse impacts that mining activities could have on operations of the airport, the port opposed the mining applications. A February 2, 2011
opinion piece by the *South County Spotlight* captures the environment. Aggregate mining firm Glacier Northwest now called CalPortland purchased the Meier property in 1989 from Don Meier with the express purpose of mining it for gravel. In fact, some familiar with the property figure there could be as much as one billion in gravel buried just below the surface. "It's the best unmined aggregate site in the state," said Bob Short, a spokesman for CalPortland. The specter of having the site located as it is adjacent to the airport transformed into an open pit gravel mine more than anything else kick started what has since been know as the legendary gravel wars, an expression used by -- used by the alliance of some local businesses and government agencies in their sometimes heated attempts to dissuade Glacier Northwest from following through on it's intentions. Less than a decade ago in 2002, Glacier Northwest signed an agreement with several agencies to not mine the property. In fact, it was partly the vision of transforming that land in south Columbia County's industrial development sector that coaxed Glacier Northwest to the negotiating table, end quote. The gravel wars ended, when the property was sold to the current property owner Airpark Development, LLC. Since Airpark Development's acquisition of the site has worked cooperatively -- cooperatively with the port and the city to examine various land use solutions, which will allow Scappoose to achieve its long-term growth objectives, allow the port to implement its long-term plan, and allow Airpark Development to make economic use of property which has been hamstrung by gravel wars and uncertainty for a quarter-century. All of these objectives, public and private, will be achieved through your acknowledgement of the land use action adopted in Ordinance 816. The record of our local proceedings reflects the port's strong support for the amendments. And acknowledgement of Ordinance 816 will allow the port to move ahead with its long-term planning as well. The city's adoption of Ordinance 816 was referred to the voters. The appellants in this proceeding were among the primary initiators of that process. The referendum to Ordinance 816, the EOA UGB amendment and related actions was held on September 20th, 2011. In the end, the citizens of the city
of Scappoose supported the City Council and voted to support Ordinance 816. Our Planning Director will describe the city’s major policy objectives in a few moments, but I want to focus on two that I believe are essential to the land use actions before you today. First, Scappoose wants to become more economically self-sufficient on the employment front. New Economic Policy 4 encourages the expansion of employment opportunities in Scappoose so more of our citizens can work near home. This policy has the critical importance to stem the tide of our citizens’ commuting to Portland for work. Having more and better local employment choices is a key policy in attaining this objective. Scappoose sees Ordinance 816 just as important to its economic future as the decisions Hillsboro made 20 years ago when it provided a variety of land and employment choices in the Silicon Forest. Second, Scappoose wants to take advantage of its unique economic attributes. New Economic Policy 10 is aimed to capitalize on the comparative advantages offered by the Scappoose Industrial Airport, the availability of serviced employment land in the city's pro-business attitude. We believe all of these attributes will create an atmosphere, which will create job opportunities. During our local process we learned that most moderately sized airports in Portland Metropolitan Region have very limited expansion opportunities. With adoption of Ordinance 816, the Scappoose Airpark is uniquely positioned to fill the demand of those opportunities. In closing, I want to let you know that Scappoose was committed to doing this right. Very experienced experts prepared the first draft of the EOA, has resolved the hearing process before our Planning Commission and Council. The EOA was modified to reflect updated information to the extent it was reliable and appropriate for consideration in the 20-year planning process. Quite frankly, with what happened the country's economy during this time, we had an issue -- during that time, we had these issues under consideration it was difficult to know how to proceed. We couldn't just stop. Judgment calls needed to be made. In the end, we decided to follow the EOA’s long-term approach, look at historical trends, market information, and came to a decision. We adopted Ordinance 816 and the
BRIAN VARRICCHIONE: Good afternoon, Madame Chair and members of the Commission. My name is Brian Varricchione. I'm the planner for the city of Scappoose. As indicated by Mayor Burge, this hearing is a culmination of a four year process that kicked off in July 2008. At that time, the City Council established an Economic Opportunities Analysis Advisory Committee on an ad hoc basis. This Advisory Committee conducted seven public meetings and one public open house in an effort to collect the facts and to vet the issues associated with the potential UGB amendment. Our Planning Commission held four hearings on this matter. Our City Council held four public hearings and one adoption meeting in producing the ordinance. With the exception of the coordinated population projections that were adopted with this ordinance all of the other components changed prior to adoption as a result of the public review process. So that included the EOA itself, amendments to the Comprehensive Plan and Development Code, as well as the UGB expansion proper. The Columbia County Planning Commission and board held public hearings they amended the county's comprehensive plan, consistent with the city's plan. And as noted, a citizen referendum resulted in a vote affirming the City Council's adoption of the ordinance. So as you can see, there's been many opportunities for public input during this process. Throughout this time period and even before, we communicated with your staff in an effort to understand and navigate the challenging UGB amendment process. This is not something that the city of Scappoose has done for a number of years so we needed assistance where we could get it. I want to thank your staff publicly for their accessibility, their counsel, and their participation throughout the process. They were a great help to us. As you know from your June 14 Director's decision, this UGB amendment involved only employment lands and this was a conscious policy choice by the Mayor and the City Council to focus...
on employment opportunities and to defer the residential land needs to a later time as allowed by Goal 14. As permitted in your Goal 9 Rule, the fundamental means for determining total land need is the economic opportunity analysis or EOA. The city's EOA was prepared by Jerry Johnson of Johnson Reid Land Use Economists. The EOA adopted by the Council in January -- used the EOA dated from January 11, which incorporated several changes to the initial 2010 draft and this resulted from testimony received during the public hearings process. Because of the appeal challenges the fundamental choices the city's made in connection with job growth projections I'd like to identify several factors from the EOA to assist you in understanding why the projected numbers were chosen and why we believe there's reasonable justification for these figures. The first factor is that there is support for the city's forecast of 8,000 new jobs between 2010 and 2030. By statute and rule we're involved in a 20-year planning process here. The EOA does not focus on the good years of 2003 to 2007 as the appellants have asserted and it does not focus on the bad years of 2008 to 2011 as the appellants would urge you to do. A much broader perspective is used. The EOA uses the 2006 covered employment data from the Oregon Employment Department, adds to those figures to include non-covered employment and then applies the growth trends between 2006 to 2010 to yield the total employment for the 2010 base year. The EOA then compares the growth rates in Scappoose from 2003 to 2007 with those corresponding rates for Oregon and Region One and concludes that Scappoose should anticipate a considerably higher growth rate than Oregon and the Portland MSA. The EOA then looks at Metro's recent growth report, which concludes a quarter of the anticipated job growth within the Portland MSA is anticipated to occur outside the Metro UGB in communities such as Scappoose. Based on various factors that I'll discuss in a moment, the EOA anticipates that approximately 2% of those jobs will locate within the Scappoose UGB. The second factor, which the mayor touched on, is that the Scappoose Industrial Airpark is uniquely positioned to accommodate growth. Out of the 16 airports within a 30-mile radius, it's
one of only three general aviation airports with a runway that's at least 5,000-feet long. This makes the airport desirable to corporate aviation departments operating turbine aircraft. The Port of St. Helens owns the majority of adjacent land with access to the runway. Business Oregon staff have indicated to us that it's turned away aviation firms interested in the airpark because there was a lack of suitable sites available at that time. Amendment of the UGB to add adjacent land would permit though the fence options to aviation-related companies that want to own their own land and once this occurs, it's believed that aviation related operations will increase significantly bring robust growth. The third factor is the Scappoose Airpark has a history of attracting innovative companies. The airpark's made a name for itself attracting over 10 firms that produce innovative aircraft related equipment. Some of these firms include Oregon Aero, Sherpa Aircraft, Support Copter [phonetic 00:23:05], Composites Universal, and Evergreen Aviation. Addition of land near the airport will permit Scappoose to leverage and to grow this cluster and this is a unique opportunity for the city and for the airport. The fourth factor is that there are several items that support the projected 7.6% annual average growth rate for employment. Our employment forecast anticipates an increase of approximately 8,000 jobs over a 20-year period starting from a base of about 2,400 jobs. Due to the small starting size, this translates to an annualized increase of 7.6%. There are seven -- there are several factors that support this projection. The first is the population growth. During the period 2000 to 2010 the city grew in population by one-third and even more recently, despite a nationwide recession, Columbia County's growth rate in 2007-08 was 1.6%. During the boom years, 2003 to 2007, Scappoose's population grew at a rate twice as fast as state and regional growth indicating that Scappoose is a desirable location just outside the Portland Metro community. As noted, Scappoose Airpark is a draw for employers. Nearly 75% of residents commute to jobs outside Columbia County. By increasing local employment opportunities, Scappoose believes it will encourage more county residents to work within the city. Demographic data shows that the city's
becoming more integrated with and similar to the Portland metropolitan region because county residents are moving into Scappoose. The resident's average age is decreasing and the educational level is increasing. Scappoose is unique within Columbia County. It's the nearest retail center for the surrounding small town and rural parts of the county and as employment grows, the demand for retail jobs will grow with it. And finally, Metro's recent growth report forecast employment for the Portland MSA, this does include Columbia County even though the country is outside Metro, and this report assumes that 73% of the job growth will be captured within the Metro UGB leaving 20% outside the UGB, but still within the MSA. So this means that approximately 338,000 to 458,000 jobs would be accommodated within the Metro UGB and that if Scappoose can capture only 1.8% of the Portland MSA growth, it will reach the projected employment growth rate adopted in the EOA. So the City Council concluded this projection as reasonable based on the recent population growth rates, the approximate location to Portland, and the fact that the Portland UGB has an undersupply of large lots over 10 acres available for development. Scappoose has large, flat sites. They're not polluted and they're located close to transportation including the Scappoose Airpark. So in conclusion, the City Council believe it's adopted and presented an EOA with employment projections that address and meet all the Goal 9 requirements and this belief has been supported at the county level and by your own staff. Thank you.

JEFF BENNETT: There are three legal issues which overarch many of the objections that you have before you today that I'd like to address just briefly. One is that the city failed to rely on historical data in reaching its employment projections. Second is whether there's substantial evidence to support the decisions that were made. The third is the reasonableness, whether -- whether certain assumptions and projections made by the city were reasonable. I'll address those in order. With regard to the failure to rely on historical data ORS 197.712, the statute that was adopted to encourage cities to remand urban growth boundaries to accommodate employment growth, your Goal 9 EOA
process, while it does have a historical component to it looks forward as well as backward. Clearly, the history is a factor. When you examine population and economic trends, you have to look back in order to determine what's happened in the past in order to project what's happened in the future. But at the same time, the Goal 9 rule clearly looks toward the future and encourages cities and counties to look at their economic advantages, to look at what kind of companies based on those economic advantages would be encouraged either to locate there or to expand there. I take you back to the reference by the mayor to the city of Hillsboro. I represented a large landowner back when I was a baby lawyer in 1981 that owned some land in -- in Washington County out near the intersection of Highway 26 and Cornelius Pass Road, when Metro was looking at establishing its first urban growth boundary. There was a great debate at that time about whether large lots should be included within the Metro urban growth boundary with an eye toward capturing high-tech -- high-tech work. Both Washington County and Hillsboro were very supportive of including those large lots along the Highway 26 corridor to encourage that kind of growth. 1000 Friends of Oregon was against it. Metro included the land; your Commission acknowledged that boundary and 30 years later, we have the Silicon Forest. Clearly, we don't just look at the past to determine what to do in the future. Hillsboro and Washington County both had the foresight to say there are opportunities in the high tech world out there and we want to take advantage of those here in Washington County and Hillsboro. If they had been limited toward looking at their historical growth, Hillsboro might very well still be a small community that has an economic base having to do with agriculture and government. Instead, it now has a very diverse economic base. So we encourage you to reject the narrow view that the objectors have that you can only focus on history. The second issue has to do with substantial evidence and I'll just point out some provisions in your Goal 9 and Goal 14 rule that deal with that issue. First of all, the Goal 9 rule says that when preparing an EOA that a city effort depends on the city's size and resources. In essence, your rule cuts a break to small
communities like Scappoose that don't have the great resources that the some of the larger communities in Oregon have and your rule expressly authorizes that. And it says that the analysis is adequate if the best available or readily collectible information is used. There's an issue about -- in one of the objections about whether we did that, but Mr. Varricchione just indicated that we did not limit our analysis of the employment growth only to the boom years of 2003 through 2007. Second of all, your -- on the substantial evidence issue Goal 14 rule says that the 20-year boundary is to -- is to be based on estimates. And it also says expressly, and I'll quote this to you because I think it's important. It says that, "Communities should not be held to an unreasonably high level of precision." The city is very proud of the product that it's -- that it has before you today. A great amount of effort has gone into preparing the EOA. There has been professional assistance that – high-level professional assistance that's gone into preparation of it. Those products have changed through time as the City Planning Commission and the City Council went through the hearing process and heard further information about the economic trends. And the final EOA wasn't -- wasn't adopted until January 2011, just before the City Council adopted Ordinance 816. The city, in response to the substantial evidence claims, prepared a chart and submitted that chart to your staff and that chart goes objection by objection and goes through the extensive record that's been submitted to you and cites to that record, where evidence can be found to respond to the claims that have been made by the objectors here. Clearly, the objectives -- the objectors like their evidence better than the -- than the city relied on but the substantial evidence rule doesn't operate that way. If there's evidence upon which a reasonable person will rely in your record, then there is substantial evidence to support that and the city is very comfortable and confident that its decisions are support by substantial evidence. The final issue has to do with the reasonableness of this -- of the decisions the city made. And it's really interesting to look at the manner in which the objectors have attacked Ordinance 816 here. If you look through the objections there's not one single objection to the policy
decisions the city made. The mayor and Mr. Varricchione went through those policy decisions or those policy implications, those policy decisions that were made and not one single one of those policies has been attacked. Yet, they’re saying that the -- the projections in particular, the population projections, the employment projections are not reasonable. But they don't look at reasonableness in the context of the policy decisions that were made. Clearly, a city, when it's looking at amending its UGB to accommodate employee growth, has choices to make. They can look at their resources, they can look at their population and they can say we're not going to grow very much. We don't have the capability of growing very much, we don't want to grow very much, and we're not going to grow very much. And they can adopt policies, economic policies to support a very conservative approach like that. They also have the ability to look at their resources and adopt more aggressive economic development policies such as Scappoose in this case. Well the city adopted fairly aggressive economic policies. There's not a question about that. The question is whether the choices that were made through the hearing process are consistent with those policies and they are. It would be untoward for a city to have -- have a very conservative economic development policy but choose high numbers. It would -- it would be -- there would be an inconsistency there between the policy choice that's made and the evidence that's relied upon to support that policy choice. In our situation we looked -- we had certain policy choices to make. Do we think we can grow? Do we have the characteristics in Scappoose that can allow us to grow? Do we have circumstances that exist that we want to reverse such as the low jobs to -- to population ratio. I mean the city looked at the jobs to population ratio and said this low number is unacceptable. Too many of our residents are -- are having to go elsewhere to find work. We want to change that. There's no question that the city has the authority and the discretion to make that policy decision as long as they can back up the projections, or they can back up that policy decision by saying we can accommodate the employment growth that we project and clearly, the city of Scappoose has the capability of doing that.
It has -- it -- it sits in a county where it's the fundamental retail core of the county, so it has a large demand for retail services, thus the -- the increase in the retail land. It has land that's adjacent to an airport that has a capability of growing which no other commercial or general aviation airport within 30 miles of Portland has the capability of doing to the extent that the city of Hillsboro can. So clearly, there's not a disconnect between the policies that have been chosen, the city's capability to support those policies, and the choices it made in -- in looking at growth projections and -- and employment projections that are under attack here. So with that, I think that concludes the city's initial comments. Unless you have any questions, we'll wait to answer questions you may have after the objectors have made their presentation.

MARILYN WORRIX: Any questions at this time? Thank you.

JEFF BENNETT: Thank you very much.

MALE SPEAKER: Thank you.

MALE SPEAKER: I take it we'll -- we'll get a chance to ask questions after we hear the appellants?

MARILYN WORRIX: We can do that--

MALE SPEAKER: [Interposing] Yes. Yes, we'll be available.

MARILYN WORRIX: Okay. I don't have any green cards. Do I need a green card for -- you don't. Okay. We have two potential opponents or appellants. Pat and I assume you are --?

MIKE SHEEHAN: Well you got Pat and Mike up here.

MARILYN WORRIX: Pat and Michael. Which of you would like to start?

MIKE SHEEHAN: I think I've been designated.

MARILYN WORRIX: Okay.

MIKE SHEEHAN: Well let me -- let me just -- I'm Mike Sheehan and I live just outside the -- the city limits in Scappoose. Let me -- we've been involved in this process for quite some time and I'm on the county Citizen Planning Advisory Committee for the
area as well. We started to have some -- some difficulty with the process back when. What had happened was a major developer from Portland had come in and bought up a large amount of the land that is now being included in the -- proposed to be included in the -- in the UGB. One of our concerns at the very beginning of the whole process when we got going in front of the city was that it appeared to be that the consultants that were providing the -- doing the EOA and everything for the city were not being paid by the city but were indeed being paid by the developer. We thought that was a little odd. And one of our concerns and so much of the -- the -- and so much of the land was -- belonged to that developer and his partner had been acquired that it looked like if the UGB went through, then that developer would have close to a monopoly of the land that had been brought into the UGB around the airport. We were concerned about that and especially in the context of the consultants being paid by the developer even though they were ostensibly working for the city. All right, so okay. So now the city has come forward and suggested that all this land, that this growth is inevitable because there's growth in Portland, and there's more jobs, and then looking at the studies and all that sort of thing. And let me walk you just quickly though some of the objections. You've got number two, the Objection two and that is that there is a problem with the employment forecast cause it's based on years when --

PAT ZIMMERMAN: Page three.

MIKE SHEEHAN: I'm sorry.

PAT ZIMMERMAN: They're on page three.

MIKE SHEEHAN: On page three, okay. It was based on the boom years of 2003 through 2007. And we sat down and we said, hey, we've got data that goes all the way to now. Why wouldn't your statistical work on that have come through all the way up to current data or close to current data as we're going through the different hearings and all that sort of thing. And the response appeared to have been that they didn't have to update it because they had -- when they got started, these were the numbers that were available
and they didn't have to change it even though new data became available. And so we were kind of shocked at that. One, because the data that they were using, and where do we have the little chart that shows the data that --

PAT ZIMMERMAN: I don't know.

MIKE SHEEHAN: You've got a chart in that that shows a bunch of data and the data goes up like this and at the end you have two low points.

PAT ZIMMERMAN: Here it is, page 21.

MIKE SHEEHAN: Page 21 here. So you've got this chart and you see that the data that they used were the high points in the middle. And if you use all the data from the beginning to up to where, you know, in 2010 or a little bit later now even further, you will find that you have an altogether different perspective on what the growth rates are liable to be like that. One of the responses we got back which is in the record was that they don't have -- they have a process they go through and they do all the statistical analysis but they don't have to change it if new data came in because they they'd always have to be changing it cause there's always new data coming in. It also implies which you'll -- you'll hear more about in a minute that if they do their analysis and then there's new data provided by people testifying at the hearings, that they presumably don't have to bring -- do anything, change their analysis based on new evidence brought in at the hearings because they've done their process and, you know, they get to stick to their process. It seems to me that that can't possibly be correct. I mean we have Goal 1 and all that sort of thing. All right, so we have the problems associated with that and here let me be quick about it. So that was one thing. It looked like they were trying to justify bringing in all the land that the developer had acquired in that area. You know, he had acquired all this land over here and they wanted to bring that in and they wanted an analysis that would justify that. All right so and that's in essence what they got and there have been bits and pieces, several little fragments. On the other side of the highway, there was a little bit and there was one in south Scappoose. But generally speaking,
everything that came in was developer land or he and his partner had acquired. So we have then on -- we have objection three, which had to do with the capture rate. They were saying that there was going to be a big capture rate because, hey, Portland doesn't have enough land to handle all this stuff and this is going to be inevitable. We bring this land in, it'll be inevitable that the industries will come out here and so on. And we looked at that and we said, if it's inevitable, why did the city virtually simultaneously adopt an enterprise zone? If it was all that stuff was going to Scappoose inevitably because of Scappoose's relationship with all of Portland and these other areas why do they need to give away all that tax revenue in an enterprise zone in order to quote, unquote attract the inevitable? We didn't get much traction. Nobody much wanted to listen to that. It didn't seem to make anybody look back and say, well, maybe there's something going on here with the analysis. But you might also note when thinking about it, that if you put the enterprise zone on all of this territory that the property that had been acquired by the developer suddenly becomes a lot more valuable because anybody that buys it doesn't have to pay property taxes for a while. Funny how that works. Okay, so you come then out to Objection 4 that the UGB expansion will cause a substantial increase in employment growth. We've -- we've talked about the employment growth and, you know, the forecast and stuff like that. It turns out that Scappoose also has a large number of people that commute in. A large number of the jobs in Scappoose and the south county area are held by people by people that commute in from outside the county. You know we've got schoolteachers, and doctors, and all sorts of folk like that. Okay, we have five. We have a problem with the employment forecast being inconsistent with the adopted population forecast. I think that might be a legal question and, you know, there's an argument back and forth about whether those two have to be consistent or not and we take one position and the city takes another. So six, there was a problem. The assumption was that the jobs come in they'll be a multiplier effect. Not only will there be jobs in the industrial areas at the airport, but they'll be a multiplier effect which will
produce more of other kinds of jobs and all of those jobs appear to have been assumed to locate in the UGB -- new UGB areas. Whereas, in Scappoose as it is and most of communities like it, a lot of the people that do that work, work out of their homes. You know if you have a cleaning service you might well be working out of your home and -- and so on. So but that was not reflected. Everything was assumed to be at the -- at the -- in the industrial areas around the airport and since you are assuming that those kind of jobs, which have a higher -- you have fewer jobs per acre, so to speak, industrial. If you're assuming that all the nonindustrial jobs will be in the industrial areas, you're going to imply that you need a lot more land. Because, generally speaking, the non-industrial jobs, you can get more of them per acre, you know, than the industrial jobs and we talk about that in objection six. And so that would justify more land and then let's see so we’ve got -- let me get over to --

PAT ZIMMERMAN: That was seven, the other service.

MIKE SHEEHAN: Seven, I'm sorry, yeah. Okay. Now we get out to the runway expansion, extension. There we have the anomaly if you can see on this map, this area right here, if you could see the black type and the brown stuff, it says airport expansion area and the claim was that those 54 acres were needed in order to justify a extension of the runway. I'm not quite clear what's going on there. This land, as you see if they extend the runway thataway, you're getting right close to the residential areas in Scappoose. It seemed a little odd, but they went ahead and they said they wanted to do that. That's 54 acres. They're claiming it was industrial or is to be industrial. This is peculiar because the Port of St. Helens airport master plan says, hey, everything is fine in the master plan. We don't need a runway expansion or extension and this is not necessary in the master plan. That's right, in the master plan that you have in one of the exhibits. The city now has gone ahead, 54 acres there and said, yes, we want that, and we had one of the Port of St. Helens folks came to a hearing and said, oh, yeah, well we -- we might want to do that even though the master plan says they absolutely don't need it. So
everyone has come back and said no, that should be in there for industrial, dah-dah-dah-dah. Okay so then we have one of the other issues with the hangars. The port's hangar analysis of need, they show that there's enough hangar space to cover the -- the ter -- the 20-years and they have some hangar space prospectively set out that they would use beyond that. However, that land too is being included in the UGB even though the port is saying we don't need that until after the UGB, you know, after the 20-year planning period and that's being justified as being necessary as -- as well. So runway expansion was number nine and then we have the -- the hangar’s issue was number 10 and then we have 11 --

PAT ZIMMERMAN: The inventory.

MIKE SHEEHAN: -- the inventory. Eleven had to do with whether or not there was extra land that was -- that the city had within the UGB already that -- and we have a map.

PAT ZIMMERMAN: It's on page 44 of your packet.

MIKE SHEEHAN: And what's the number on mine? Okay. So we pointed out a number of different areas where there was developable -- undeveloped or developable land and that the city had not included in the analysis. And we said the amount should be -- the total amount to be brought in should be reduced by that amount and -- and the city has come back and said, well, there's -- let's, you know, that doesn't really count or if there's a farmhouse on it and that shouldn't count and, you know. So you've got that. You've got right across the road there is a -- you've got a -- an old gravel pit and that's been being filled in. Taking a lot of fill from Washington County and filling it in and they're putting industrial sites there and the city included that in its enterprise zone. If it was not capable of being industrial land or developable land the city obviously would not have wasted its enterprise zone capability by including that in the area, that's this area over here the E, would not have wasted its enterprise zone cause you can run out of territory on that, by bringing that in. That's in the enterprise zone. Okay, well let me
then wind this up with respect to the 20 acres. That's this blue part here at the south end of the runway closest to the residential areas of Scappoose, that they propose to bring in as a potential PCC campus. Now that we deal with in objection --

PAT ZIMMERMAN: Twelve.

MIKE SHEEHAN: -- twelve. There's no justification. They -- they sit down and they say, oh, yes, there's a -- there's sort of a tentative agreement with PCC between the developer, the developer and PCC to maybe have PCC buy that. PCC back when was talking about putting a Portland Police Academy training facility out here but then Portland police said, no, we're not interested, we're going to go down south and do it and so it's not quite clear. There's no firm agreement. We tried to get a copy of the agreement, couldn't get a copy of the agreement. There's -- they don't have anything and it might come, it might not. PCC has been closing its facilities over the last few years in Columbia County and saying, hey, if you want to go to PCC you've got to go to Rock Creek or one of the other campuses and, you know, not -- not having it out here. So this is put here. The justification says well it's there, but we might put it someplace else. So he got 20 acres and it struck me as odd. If you think about it, they're talking about extending the runway south and this is going to be a college campus right next to the run -- one end of the runway. So you're going to have they're saying, you know, double the number of planes, you know they're going to based in Scappoose and you're going to have all these new planes coming in and you're going to put a PCC campus right there at the foot of the runway right next to the runway. I'm not sure that I would want my kids going to that campus with that amount of air traffic coming in right next to it. It seems an odd place for them to suggest putting such a thing. So they have come back and said, oh, well, it's going to be training for airplane mechanics or something like that but they come up with a different story it seems every time you talk to them. All right, so let me say one other thing. Everything you've heard today from the city has had a component in it mentioning that there was a referendum and I was one of the ones that organized the
referendum and walked house -- door to door and all that kind of stuff. In the end, indeed, the voters voted to approve it, but that was by 61 votes. If 31 people had changed their votes it would have gone the other way, so this was not any kind of overwhelming thing and I'm not quite sure why they keep bringing it up but it was a close vote and all. All right, so we've got all the data that we've put together you've got in the record and I thank you very much for your time and attention. If you have any questions, happy to take them on.

MARILYN WORRIX: Questions? Pat.

PAT ZIMMERMAN: Chair Worrix, members of the Commission, I'm Pat Zimmerman. I've lived outside of Scappoose for over 30 years and some of you may not be surprised to hear that I'm bringing up an issue around Goal 1. But first, one comment. Mike talked about the enterprise zone and how lands in the land inventory that justified the expansion did not include many areas that were in the enterprise zone. In addition, there were many areas eliminated from the land inventory that are vacant and most of which are currently zoned industrial that are already in the UGB that were excluded from the inventory because they were theoretically in a floodplain, 100 year floodplain and those were excluded. However, the enterprise zone includes all of those lands and it's clear that the county intends to use that area -- or the city and the county intends to use that area as, you know, industrial developable land. So the land inventory that is justifying the 380-acre inclusion is really full of holes and most of those have been called out in our objections and in the earlier objections of 1000 Friends. So this is an incredibly complex process that's been going on for four years at least and I'm certainly not going to even attempt to cover even as much as Mike has. There's one issue that I find extremely difficult to deal with and that is the Goal 1 issue. Goal 1 is -- Land Use Planning Goal 1 says that citizens must be involved in all aspects of the land use planning process. The fundamental document that is justifying this 380-acre expansion is the Economic Opportunity Analysis, the EOA. The EOA was put together by a committee
which had no public citizens, technically had public hearings but as far as I know, no one ever showed up because it was, you know, the two-line eight-point type notice in the back of the local want ads, goobledy-gook. So the EOA was -- actually, the first version that I saw was 2009 and it was put together by this committee that consisted of the usual suspects: planners, and the city planners from the county, and the raft of consultants that were paid for by the developer. There was essentially no public input on that thing. Okay, so the first public version of it came out in February of 2010 and it along with the rest of the application was submitted to the DLCD in February of 2012. So it was out there for two years. There were dozens of public hearings. Citizens did in fact participate essentially in all of them, in many cases submitting extremely well documented data that was from exactly the same sources as those used by the consultants, but it was updated. The consultant's data generally stops at 2007. A few updates went as far as 2009, but we've got two years of hearings starting in 2010 going on until 2012, where citizens brought in very well documented, absolutely unquestionable data that was current. And the consultants, although they were asked by the City Council to update the EOA and they did change a few things here and there, so it wasn't like it was set in stone, but they didn't update any of the fundamental data, any of the statistics about employment, employment forecast, trends, any of that stuff. They're all back, you know, where they were in about 2009. It is really of concern that when this thing was given to DLCD in February this year and DLCD created their staff report, and this issue was brought up in the objections that were given to the city way back, you know, years ago and in the objections that Mike and I put in and 1000 Friends put in earlier, the staff's response to the fact that citizen input was completely ignored was, and I quote and it's on page six of your stuff, "The city is not required to restart its analysis each time new information becomes available. The rule does not require or imply that studies must be amended to address data that becomes available in the middle of the study. The city made reasonable conclusions based on data that was available at the time the study took
place," and they're talking 2009. This means that Goal 1 is absolute nonsense. It means that citizens have no right or ability to put in information that will affect the outcome. That's just wrong. What concerns me more than anything else is what I read you is the staff, DLCD's official report on this issue. Now the staff knows. I am absolutely positive because they are very experienced, intelligent, and you know people who do good research. I'm sure they know that the employment numbers and the projection that the employment in the city of Scappoose is going to increase by 7.6% every single year starting in 2010 and going out to 2030. That is the basis for the entire expansion. Without that, they can't do it. And as Mike pointed out, you know they started with we want this many acres and worked backwards and that's what they needed, 7.6%. I know the staff knows this is fraudulent, but their response is what I just read you. Nothing has to be updated? I don't know. I don't understand how they can say this. I can only assume that there is very heavy political pressure and lord knows there is heavy political pressure on this. Our state Senator Betsy Johnson is very, very strongly behind this. She is the Vice-Chair of the Ways and Means Committee. You know I know for sure that she has thrown her weight around on this issue. I don't know what she has done to the DLCD or maybe nothing, but this statement is crazy. It cuts citizens out of the process completely and that's not right. That's really all I have to say. Any questions?

MARILYN WORRX: Questions for Pat?

MALE SPEAKER: Madame Chair. Just so I understand your point about citizen involvement my -- my reading of this was that this -- the comment that you quoted from -- from the staff report was dealing with data, the set of data that they were going to -- population progression, projections that -- that they were going to use and were relying on in coming up with their EOA. Are you suggesting that citizen input was -- was denied because of the set of data that they relied on?

PAT ZIMMERMAN: It was employment projections.

MALE SPEAKER: Yeah.
PAT ZIMMERMAN: Citizen input was not taken into account through the two years of hearings. The data on employment and employment projections which citizens gave updated information based on the same sources that, you know, the consultants had used was not -- was not included in the EOA.

MALE SPEAKER: Okay.

PAT ZIMMERMAN: Is that --?

MALE SPEAKER: Yeah, I think I understand.

MARILYN WORRIX: You came up with newer information but --

PAT ZIMMERMAN: Mm-hmm.

MARILYN WORRIX: -- it was not incorporated into the --

PAT ZIMMERMAN: [Interposing] Right whereas some other changes were made when we pointed out other errors.

MALE SPEAKER: Is the input, if I may, the implication being that if new data from, you know, the census bureau or the state couldn't be included in the analy -- in the statistics then if citizens had brought that data forward it wouldn't have been includable either.

MALE SPEAKER: Okay.

MARILYN WORRIX: Other questions for Pat or for Mike?

MALE SPEAKER: Chair, what's our process from here?

MARILYN WORRIX: Well I heard a desire to hear the city folks speak again so I guess we'll --

MALE SPEAKER: We have a written response from Jeff Bennett but we only received that at --

MARILYN WORRIX: That's correct.

MALE SPEAKER: -- noon today so I -- I've not read this and he's got about 21 pages.

MARILYN WORRIX: Yes, I know.
MALE SPEAKER: So some of the answers to the questions that we may have may be in here, I don't know. But I am feeling a need to --

MARILYN WORRIX: You have a copy of that?

MALE SPEAKER: -- dive into this a little bit.

MARILYN WORRIX: Let's see that Pat and Mike get a copy of it.

PAT ZIMMERMAN: Are you done with us?

MARILYN WORRIX: I guess for now we are.

MALE SPEAKER: Yeah, thank you very much.

MALE SPEAKER: For now.

MARILYN WORRIX: Yes?

CATHERINE MORROW: My understanding is that this letter dated May 9th, 2012 from Mr. Bennett was part of the record.

MARILYN WORRIX: That's correct.

MALE SPEAKER: I think so.

MARILYN WORRIX: Right.

MALE SPEAKER: We -- we -- I just hadn't seen it before today so --

CATHERINE MORROW: Right and I -- I saw it because I had had some questions that I asked Ms. Debbaut and she forwarded it to me so but it -- it was part of the record. Is that correct?

MALE SPEAKER: Anne, do you want to come up?

ANNE DEBBAUT: When I sent that to you I thought it was part of the record and it was referred to in -- in the appellant's -- in the app -- in the appeal that was referred to so I understand that to be part of the record.

FEMALE SPEAKER: Thank you.

MARILYN WORRIX: And so we just received it today because -- ?

ANNE DEBBAUT: It was not originally -- I don't believe it was listed on the list of items that were in the record in the Director's report. But when I was asked for some
other information, I thought that was part of the record and it was referred to, like I said, as quoted -- that letter was quoted in the appellant's information that they brought forward. So I thought since I did send it to Catherine that it should be available for everybody.

MARILYN WORRIX: Thank you. What's the pleasure of the Commission? Would you like to hear from the city again now? We did indicate they could have another opportunity to speak to us. Is that what you'd like to do at this point?

MALE SPEAKER: Yeah.

MARILYN WORRIX: All right. Let's have the folks come back up from the city. And it was Jeff?

JEFF BENNETT: Jeff.

MARILYN WORRIX: Bryant?

MALE SPEAKER: Brian.

MARILYN WORRIX: Brian.

MALE SPEAKER: Don't even try to say his last name.

MARILYN WORRIX: I didn't. I dodged that.

MALE SPEAKER: I have a little thing on my -- .

JEFF BENNETT: And to my immediate right is Jerry Johnson from Johnson Reid and to his right, Jessie Winterowd from Winterbrook Planning.

MARILYN WORRIX: Okay.

JEFF BENNETT: Let's see, where do I start? Let me talk about politics for a minute because there were some assertions made that for which there's absolutely no basis in the record about political pressure on people. So -- and I -- I know you understand that this is an on the record proceeding so to the extent that references were made, or assertions were made, or claims were made that political pressure has been brought to bear on your staff, on you, or others and certainly, there's no evidence in the record that that's happened. So --
MALE SPEAKER: [Interposing] Can -- may I comment on that?

MARILYN WORRIX: Please.

MALE SPEAKER: Betsy Johnson is my senator and I didn't particularly like her at first and but -- no, I'll just throw that out. She didn't particularly like me either and we had some issues that had to do with aggregate when I was in the legislature and she was the Director of Aeronautics. And so the relationship that she and I had, me as a County Commissioner and her as my State Senator started with a rocky beginning, pun intended. But I think the world of her. She is just so very effective and works very hard and -- and she has plugged herself into a myriad of -- of problems in Tillamook County and has bent over backwards to help us solve our problems. She has never thrown her weight around. She's a bit cantankerous, but then so am I when I want to be, but she doesn't push her weight around. She tries to get problems solved and so I really did take exception to that.

JEFF BENNETT: Well, you know, it's been my experience in the 30 years I've been doing this that people who don't get what they want try to find reasons why they didn't get what they want and you heard some of those today. What we would prefer to focus on is what the city's done, what the record says, and -- and respond to the objections in -- in a professional way. And before I go to the objections that were -- were raised there were a number of comments about -- about a major developer coming into town, that a major developer was having his way with the city, that the major developer got all of his land into the UGB. And I guess there are different ways of looking at that, but one thing that the record will reflect is that the major developer did not get all of the major developer's land in the UGB. There's a considerable amount of the land that the major developer owns that is not inside the UGB and I just want to say that as a point of clarification. The second is that you can look at major development, a major developer owning a significant parcel of land as a blessing maybe or a curse as the objectors do. I think the city really looked at that as an opportunity more than as a curse. There are certain benefits that come with someone who has the ability to deliver something and
oftentimes, when small jurisdictions are looking to solve problems that they have, those problems can be insurmountable because there are too many people that they have to go to, to get those problems solved. In this case, there's no question that a significant part of the land that has been added to the city's UGB is owned by one property owner. There's not a question about that. The city really saw that as a benefit not as a curse, so I just wanted to make that clear. In response to the question about the boom years -- let me -- let me step back one. The letter that you received, the 21-page letter, we assumed that that had been given to you. We go through exhaustively each and every objection. We respond to each and every objection and we attach to that objection the chart that I referred to in my comments earlier, which is the key to the substantial evidence that can be found in the record to support the decisions that the city made. Okay. On the boom years issue Mr. Sheehan's right and Mrs. Zimmerman’s right. The process that cities get to go through in Oregon to amend their urban growth boundaries is a long process. It's a complicated process and it's -- it's an expensive process and information comes in during that process and Mr. Johnson can -- can answer the question about how that was updated. But lots of information comes in but at the end of the day, the really important point that I want to make is that some of that information gets selected and some of it doesn't. There's nothing in Goal 1 that says just because a city gets information it has to decide that that's the information it's going to rely on in making its decisions. I said earlier that there are policy choices that cities get to make when they amend their urban growth boundaries. And it's not uncommon in these kinds of proceedings, which take months and months, and this one took nearly a year of hearings, you know, formal hearings before Planning Commission and City Council that you're going to get competing data and you're going to get new data and you're going to get old data. And some of it's going to conflict and ultimately, a city has to decide which data to rely on in making its decisions. So Goal 1 doesn't say that just because you put something in front of a jurisdiction that the jurisdiction has to say, oh, we'll deal with that because a jurisdiction
simply can't. This isn't -- this was a legislative process, which means it's policy-driven and policy decisions were made and evidence was reflected in the OA to support the policy decisions that were made. There -- there's an assertion that -- that there is no reference or there -- there is no update of information and Mr. Johnson can respond to that questions, but what that does is it ignores Figure 24 in the EOA that talks about 2010 to 2016 data. It ignores information in the -- in the EOA that talks about Metro's urban growth report that dealt with -- that dealt with land needs that weren't within the quote, boom years that were relied on. So the city clearly responded or dealt with data that was outside the boom years of 2003 to 2007. Jerry, you want to add anything to that?

JERRY JOHNSON: I feel really short down here in my short chair.

MALE SPEAKER: You're a short guy like me.

JERRY JOHNSON: I'm not tall to begin with, but he likes this. First of all, I want to get several things in the data. Certainly data comes in all the time. Economic data comes in, you know every month, sometimes every week and they actually revise historical data too, so they have revisioned history so it's always a moving target. I think what is sort of overdone here and some of I think probably not understood in the analysis is that most of the analysis really dealt with sort a policy decision which is to take advantage -- the city take advantage of their unique opportunity as a very proximate and preferred location in the Portland metropolitan area along the highway and to use that to basically increase their share of the broader metropolitan area employment. I mean a lot of that stuff in the appeals and some of the things in the hearings were based on what's called region one which includes coastal economies and -- and just because the state sort of basically makes this erroneous thing and puts them in Region 1 because they're adjacent to them. But the economy Scappoose is much more linked to the Portland metropolitan area and that's actually how the feds actually define it. Because the federal government takes a look at economic activity between counties and says, look, this is going to be a functional part of the metropolitan statistical area if it's near Portland and
it's really part of the Portland metro area. So what the city had made a policy choice to
do because we had some very concerted options for them as well in the TACs, the
advisory committees as part of the outreach. Yet if I'd taken advantage of that position,
be opportunistic and to appeal to some of this employment that's out there. I mean we do
have the Metro area that's saying in the baseline numbers one, that they can't
accommodate everything and they expect it'll go elsewhere. Elsewhere typically means
the peripheral areas around it, as well as Clark County, and they would like to try to
appeal to some of that employment. You know if we including more subsequent data the
city of Portland's EOA, which they're putting up for adoption. They haven't adopted it
much less come to you. I'm sure it will all end up in front of you before this is all over.
They've got a 600 acre deficit even to make their 73% of growth targets. So we're having
deficits all around. Metro, while they're assuming a 73% capture of regional growth, they
haven't figured out where they're putting that either, so that may be optimistic.
Throughout this process, we tried to be fairly conservative, but that was definitely a
policy decision to be opportunistic and take advantage of unique position. So while the
boom years do make it look, I guess, more similar to the historical context, it really
wasn't as much historical context as a sort of unique opportunity in time to take
advantage of what was going on in the region.

JEFF BENNETT: Any other comments? On the second -- on Objection Number
3 having to do with capture rates and that the -- those capture rates were unlawful, of
course Mr. Sheehan argued about the enterprise zone and the inevitability of growth
coming to Scappoose. There aren't any findings in the documents that we've adopted and
findings that we adopted to say that growth was inevitably going to come to Scappoose.
There's no such finding anywhere so that concept is made up, quite frankly. The question
becomes why adopt an enterprise zone and I suppose there are multiple answers to that.
I'll give one. Just because you have land doesn't mean people will come. There are a
number of different mechanisms that local governments use to attract people to come to
their jurisdiction and an enterprise zone is one of them. Scappoose will not just be competing with, you know, for employment opportunities with companies in the city of Portland. They'll be competing outside of Portland in southwest Washington and other parts of Oregon and there's nothing in the law that says that the city can't implement processes and use techniques that allow it to be competitive in the marketplace to attract employers to come to Scappoose. Any other comments on -- ?

MALE SPEAKER: Can I comment on just -- on the enterprise zone? My day job is sales and so I looked at it. When you have two pieces of property that are identical and one's going to have a tax break on it that a company that's looking to move there can take and the other one does not, a smart business person is probably going to go through and take the tax break. So my position on an enterprise zone is that we have to be competitive with that guy. You know you look at it, there's two cars. They're identical Fords. One has a $500.00 rebate the other one doesn't. The price is exactly the same, everything's exactly the same. You're going to buy the one with the $500.00 rebate, and it's just human nature and it's a way of creating another option to attract the businesses. You don't just put the car out there with no For Sale sign and expect someone to come and buy it. You have to go out, you have to market it, you have to sell it, and you give them features, advantages, and benefits of why they should locate here. And one of the features is we're able to provide them with the enterprise zone and that can give us an advantage and them a benefit which can help create jobs in the local area. As far as some of the enterprise zone outside the city limits of Scappoose that they were commenting on, the city of Scappoose doesn't have any authority over lands outside the city limits of Scappoose. I believe that was the county that had to adopt those portions of the enterprise zone.

MARILYN WORRIX: Yes?

CATHERINE MORROW: Madam Chair, I have a question about this enterprise zone. Based on the testimony of the opponents I'm -- I'm not clear. Has an enterprise
zone been adopted for this land subsequent to the UGB expansion and is there land --
you've just said there's land in the county that's subject to the enterprise zone and I
thought I remembered something in the materials about there was some sort of limit to
the amount of land that could be in an enterprise zone. Can you just clarify for me where
the enterprise zone is and is all this land subject -- all this industrial land subject to the
enterprise zone? I'm not clear on that. Thank you.

MALE SPEAKER: The enterprise zone is actually a cooperative endeavor
among several communities within Columbia County, so city of St. Helens, city of
Scappoose, Columbia County itself, and I think --

MALE SPEAKER: Columbia City.

MALE SPEAKER: -- Columbia City. So yes, there is by state law a limit on
how many square miles can be included in an enterprise zone. And so when the various
agencies were mapping out where this would go, they had to keep a tally sheet to make
sure they didn't exceed that threshold, so that there is that -- that figure that -- that guides
everything. Portions of other areas of the city that are industrially zoned are within the
enterprise zone, as well as the area proposed for expansion that was adopted by the city
and the county to be in the enterprise zone. So it's -- it's more than just the existing city
limits and I believe that was just meant to be a strategic move. Whenever the enterprise
zone is established you need a legal description prepared by a surveyor, et cetera. It's
kind of a administrative burden, so I think they just made a pretty wide swath on the map
and said that this would be the area. That way they wouldn't have to amend it in the
future.

CATHERINE MORROW: Okay so all of the land that's part of this UGB
expansion that is identified as industrial land is part of the enterprise zone?

MALE SPEAKER: Correct.

CATHERINE MORROW: Okay, thank you.

MALE SPEAKER: Welcome.
MALE SPEAKER: And could you answer Commissioner Morrow's question about when it was adopted?

MALE SPEAKER: Perhaps the mayor could.

MALE SPEAKER: It was before.

MALE SPEAKER: It was prior to the UGB --

CATHERINE MORROW: [Interposing] But the enterprise zone was, like you said, it was established that this tri-jurisdiction and was broad --

MALE SPEAKER: Yes, right.

CATHERINE MORROW: -- in anticipation of whatever might happen?

MALE SPEAKER: Hoping for the best, yes.

MALE SPEAKER: I think part of it is part of our aggressive economic development posture that we're presenting and stepping forward with for the city of Scappoose. We're not going to sit back and hope the companies come and build there. We're going to go out and actively and aggressively recruit.

CATHERINE MORROW: Thank you.

MARILYN WORRIX: One comment and, Jeff, you said you're used to seeing people that don't get what they want sometimes look for reasons. We've all seen that, too, especially when it's a property wants to be designated one way or another.

JEFF BENNETT: Sure.

MARILYN WORRIX: But I really think that the people that have raised the objections here, given the kinds of objections they've raised, I think what they want is, in their mind, just good planning. I think 1000 Friends, Pat Zimmerman, and Mike Sheehan have hatched all of their arguments in terms of we just don't think this is prudent planning. I don't think any of them have something they want or they're looking for other than good planning.

JEFF BENNETT: Okay.
MARILYN WORRIX: We have -- we have started, as the economy has struggled more, to give more and more leeway as cities determine their employment needs. And yet, Goal 14 is need-based and so we have this constant tug between do you really need it, can you be aspirational? How aspirational can you be? And it seems as if as we sort of loosen that a little bit, they just get bigger, and bigger, and bigger. And you have to admit, this one's big. This is really aspirational. It makes big assumptions in terms of the -- the number of jobs that -- that will be created. It is aggressive in terms of the -- what you will get from the general area. I remember reading, it was probably in the 1000 Friends one where your projections leave you with over two jobs for every person that lives in the city. Was that true? Do your numbers take you there? I'm sure you read 1000 Friends’ objection and the way they said that.

MALE SPEAKER: Yeah. Do you know what the eventual jobs --

MALE SPEAKER: It's about one-to-one.

JERRY JOHNSON: Ends up about one-to-one.

MARILYN WORRIX: How -- how -- how are they so far off? It looked like pretty easy math.

MALE SPEAKER: They might be talking about families to jobs rather than one person two jobs. So we're [INAUDIBLE]. It did not consider new population but accounted for over 10,000 jobs so.

MARILYN WORRIX: So you expect the people that get your jobs to live there?

MALE SPEAKER: I think -- I think the expectation and it was actually a policy thing as well is that we're trying to -- the city was intending to change of situation as a bedroom community to become more of an employment center. Historically, within Columbia County, Scappoose was a employment center -- well we're pretty wide. Hinterland actually drove into Scappoose for employment in the old days. It is over time become much more of a bedroom community to the Portland Metro area. I think what they're looking for is reversal to more of their historical norms.
MALE SPEAKER: And I don't think you can look at it quite as simply as lets assume that the ratio's one-to-one that every person who lives there is going to work there. The region from which you draw is -- is much broader than just -- than the city limits. I mean there's, you know, the greater Port -- I mean Columbia County is a very rural county. The people who live out in rural Columbia County also have jobs so we want to become one of the desirable centers for those people to come to work. There's also the information from the Metro study that deals with the amount of population growth that -- that the Portland Metro area is going to see over the next 20 years and how much of that growth can be accommodated within the Portland UGB and how much they anticipate to essentially leak out. I mean they -- they've assumed that somewhere between 375 and 450,000 of those jobs that come to Portland -- that come to you know within the Portland UGB area in the next 20 years are going to be accommodated outside the UGB, but within the Portland metropolitan statistical area, which Scappoose is in. So --

MARILYN WORRIX: Yeah, I realize that's --

MALE SPEAKER: [Interposing] So I mean that's 400 jobs. It we can ca -- if we can capture 1.9% of those jobs, just 1.9%. That capture alone --

MARILYN WORRIX: [Interposing] Didn't you assume you were going to capture much more than that?

MALE SPEAKER: No.

MALE SPEAKER: No.

MARILYN WORRIX: Okay.

MALE SPEAKER: No, that capture alone without -- without adding jobs from within Scappoose and within Columbia County will allow the city to meet its population or it's implanted forecast.

MARILYN WORRIX: I realize that the one-to-one is it's simplistic if you say they're all going to live there. The reason I asked the question was because it seemed like
a pretty straightforward math problem where 1000 Friends had you getting over two jobs per person and I understand the -- the comments you've -- you've said those numbers aren't right.

MALE SPEAKER: Madam Chair?

MARILYN WORRIX: Yes.

MALE SPEAKER: I think the relevant statistics that 1000 Friends claims are on the top of page seven in that first paragraph so that is one of their objections or appellant's objections. So the end result would be roughly one job per resident or a little more.

MARILYN WORRIX: Okay.

MALE SPEAKER: But the rate of increase from the current situation from 2010 to where they end up would be 2.4 jobs for every new resident.

MARILYN WORRIX: I gotcha. Thank you.

MALE SPEAKER: So which does seem to me to be a pretty aggressive number.

MARILYN WORRIX: It is very aggressive. I mean surely you admit it's very aggressive.

MALE SPEAKER: We're not trying to hide the fact that we think --

[Crosstalk]

MARILYN WORRIX: It's very aggressive.

MALE SPEAKER: I don't think anyone's saying we -- we've chosen the moderate -- the middle path here and there's no question. The issue is at least in my view, if you look at Scappoose today, 6,500 residents, you have 2,300 jobs, 23-2,400 hundred jobs. That means if you're just looking at it resident to -- to job, it's almost three residents per job and that's -- the city has decided that that's an unacceptable number. That's an unacceptable -- for its own citizens not to be able to work in Scappoose. It's unacceptable for the people who live in rural Columbia County not to have opportunities in Scappoose. So if you look at just with that microscopic eye, the city's policy decision to change and reverse that trend is a reasonable approach to take. If you add to that
what's going on in the Portland Metro area and they're -- Metro's admission that on the average, 400,000 jobs are going to leak out of the Portland UGB in the next 20 years. For Scappoose to say based upon its location, based upon the fact that it has an airport, based upon the fact that it has a poorer jobs-to-population ratio, the question is it reasonable for us to say we're going to take an aggressive posture. We're going to change the way Scappoose is and it's our view that it's reasonable to do that. It's reasonable to dream as long as you have a basis for dreaming like that, as long as you have a basis like Hillsboro did for changing. I know your hometown between 1990 and 2010, in a 20-year time period it doubled in population from about 3,000 to 6,000.

MALE SPEAKER: And it's now about the same size as Scappoose.

MALE SPEAKER: But I don't know that we're looking at anything like that kind of increase in employment.

MALE SPEAKER: Well but you have -- you've experienced --

MALE SPEAKER: [Interposing] We don't have an airport.

MALE SPEAKER: -- but you've experienced it. You've experienced the doubling in population in a fairly short time so the question is whether that's reasonable and we believe that given all those factors it's reasonable. Did you want to add?

MALE SPEAKER: No.

MALE SPEAKER: I had a sense that you wanted --

MALE SPEAKER: Well the one thing I was going to say is, you know, we do stress with jurisdictions that they can be aspirational but yet not delusional. And it becomes a situation -- because of the unique location of Scappoose that this is actually a plausible, viable scenario for them to appeal to because they actually have [INAUDIBLE]. If this was Joseph, Oregon; there'd be no large economic engine that they can basically work on market share against. But because of the position that Scappoose was in, we actually thought this was a reasonable reading of broader economic trends at the metropolitan area.
TIM JOSI: I have a question for the mayor.

MARILYN WORRIX: Tim?

TIM JOSI: Mr. Mayor, how do you pronounce Scappoose? Scap-poose, Scappoose? I hear it in both of them.

MAYOR BURGE: Yeah. I keep wanting to pass it on that it's a violation of city code to mispronounce it. It's -- it's -- it's Scap-poose, Scap-poose.

TIM JOSI: Mayor, thank you.

MAYOR BURGE: My -- my attorneys say that we can't pass that ordinance though.

JEFF BENNETT: I told him he couldn't enforce it.

MALE SPEAKER: You pronounce it both ways.

JEFF BENNETT: That's what happens when you're from Wisconsin.

MARILYN WORRIX: Well one of the reasons I was asking questions about the relationship between residents, housing, and employment is because earlier today we heard a presentation on our reduction of greenhouse gases that says, get people to live where they work. You know you have to change your policies at some point and start to do that. And so when I hear capture rate and I'm not sure we're -- we're really being as serious as we should be about some of them. You have to live where you work or you should be able to live where you work. But you -- you alleviated some of that concern, not all of it.

MALE SPEAKER: You know I was go -- I've never worked in Scappoose. I've lived there since 1977 when my family moved there from Wyoming even though we were born in California. But --

MALE SPEAKER: We'll forgive that.

MALE SPEAKER: We snuck into Wyoming. We -- I -- I know that if I had a job that paid me a decent wage and was in Scappoose, I could work for approximately $5-7,000.00 less a year because I wouldn't be commuting every day into Portland. Just
with today's gas prices, keeping up with your vehicle, and the inevitable of eating out and the other things that accommodate -- I would shop more in Scappoose. Instead of running during my lunch hour at work down to the local store in Lake Oswego, where the office currently is, I would shop in Scappoose. So you're right, it -- it -- there is an environmental impact, but there's also an economic impact for people being able to work and live where they -- and live in the same area because it creates that economic engine. It helps creates that economic engine that you're not exporting.

MALE SPEAKER: And you burn less fuel.

MALE SPEAKER: You burn less fuel, less carbon, less traffic. It's, you know, all in all it's best for a two-lane highway that -- let's be honest. Today it takes 25 minutes to get to downtown Portland, whether it's rush hour or the middle of the night. The only thing that slows it down is accidents, but it's a 25-minute commute and we try not to let too many people know, but let's be honest, we were 3,000 people when I moved here in '77. We were at 3,500 in 1995. We're 6,800 now, so we've nearly doubled in the last 17 years, nearly 20 years. So we've experienced growth. You know the July -- July building permits just in July of 2008 before the recession, 105 approximately building permits that first month?

MALE SPEAKER: Let's just say our building official is pulling his hair out. We have one inspector.

MALE SPEAKER: We were -- we were -- we were experiencing enormous growth and there's very little doubt that when this economy completely turns around that it won't return. People want to live in a community like Scappoose and if we can provide them jobs, they won't need to commute to Portland saving all that environmental and economic benefits to people.

Marilyn Worrix: Greg, you had something to say.

Greg MacPherson: Yeah, something I didn't find in the material and maybe it's buried in there. I didn't -- I just didn't locate it -- what are the drivers that are going to
cause a property adjacent to the airport, a civil aviation airport, not one providing commercial passenger service, to generate the kind of job increase. I mean, I don't -- to me, I just don't understand what the connectors are. What -- what kinds of businesses are going to generate the kind of employment growth that's being aspired to here?

MALE SPEAKER: I think that there's two elements to that. First of all, as far as successful airport business park employment I think the closest example would probably be Aurora, which has done quite well near the airport business park. But that's only a fraction of the overall industrial need. A lot of the reason it's near the airport is just when they went through the alternatives analysis that Jessie can speak to. That just sort of seems to be the least constrained, value of agriculture land in the area. So while some portion of it would definitely be airport-related and the airport has had success attracting employers to the airport related to being inside the fence that was appealing to other tenants. A lot of the demand is also just more broader industrial demand and may have very little to do with the airport.

MALE SPEAKER: If I could just comment quickly. Commissioner Macpherson, when we went through a hearing process, one of the companies that recently located Oregon Aero -- how long -- how long has Oregon Aero been there?

MALE SPEAKER: Ten or twelve years.

MALE SPEAKER: Yeah, so 10 or 12 years. They came and talked about how the companies involved in the aviation business cluster around each other. They tend to have the same kind of interests about what goes on up in the air and they like to talk to each other about how they solve problems. We have a company there that builds specialty equipment that goes inside of airplanes. Can you describe just briefly what Oregon Aero does?

MALE SPEAKER: Oregon Aero is a manufacturer of components for aircraft. They've in the past received military contracts, you know, to make a shockproof helmet. They do overhauls for airplanes to install new seats and interiors. It's quite a wide range
and lately, they've even been branching out into some sort of medical device, so you know, their -- their technical staff and employee recognize that hey, that this process that we use could be applied elsewhere. And so they're trying to expand the range of things that they provide.

MARILYN WORRIX: Back in my real estate days, I specialized in aviation property and what I'm hearing here is true. There are aviation-related, even tenuously. They do like to cluster together and they do like to be around the airport, but I did wonder the same question because I don't see just a huge number of aviation companies coming because you have a airport. It's one draw, but it's -- it's certainly not the whole thing. And Evergreen is not moving. They belong in here.

JEFF BENNETT: And one of the things you probably know if you've been involved in the aircraft industry is that, you know, when you have a 5,000-foot runway, you can get -- you can take corporate jets, you can take turbine jets.

MARILYN WORRIX: Only if your runway's thick enough.

JEFF BENNETT: Okay.

MARILYN WORRIX: Really.

JEFF BENNETT: And I -- I won't confess to say how thick the airport -- runway is in -- in Scappoose. But there -- one of the benefits there is that -- that you get corporate jets and that's what Hillsboro has done. I mean, there's been an immense amount of corporate jet activity there that's principally linked I think to the high-tech industry but yet, that if you have a 5,000-foot runway you can accommodate a corporate jet. Of course a corporate jet needs a corporate hangar and a corporate hangar takes space. And so that generates a need for larger spaces than maybe a typical industrial use would, so you're going to have a need for larger sites near airports if you're -- one of your targets is that kind of activity. Let me get -- get back to response to the objections. Objection Number 5, Mr. Sheehan correctly observed that that's a legal issue having to do with whether the -- the employment forecast needs to be consistent with population
forecast and your Goal 14 Rule specifically allows that inconsistency. It says Goal 14 does not require that job growth estimates necessarily be proportional to the population growth and I think that's consistent with the idea that you see in a Goal 9 rule that allows -- allows aspirational thought when you're looking at expanding urban growth boundaries to accommodate employment types of needs. With regard to Objection 6, there was -- there's a claim that the city didn't appropriately account for a number of jobs actually occurring within the residential lands as opposed to occurring all on industrial lands. I'll just talk to the proof side of things that there's really not any proof that there's a significant percentage of those kinds of jobs that occur in residential areas. Jerry, you maybe can speak generally to how those things work.

JERRY JOHNSON: It's -- it's gets -- sometimes it's hard to follow it through but what's said in there is that marginal growth and industries aren't going to stay in the home base, but we're maintaining the same level of home-based industry as currently exists in the city. And a lot of these home-based industries basically work almost as incubators so as you grow them up they go into, you know, actual real estate out of the home base but then they're probably backfilled with additional home based businesses. So in the analysis, actually the existing level of home-based business stays constant. It's just growth from some of these are fee -- from the home-based industries growing out are feeding the overall demand for employment lands.

JEFF BENNETT: With regard to Objection number 9, it deals with the apparent inconsistency between the Scappoose Airpark master plan, and you notice I said Scappoose Airpark master plan and the inclusion of a 54-acre piece of property to accommodate an extension of the air -- of the runway. I think Mr. Sheehan a bit mischaracterized and marginalized the testimony that came from the port. The port's manager testified three times that I remember, said that the port does plan to expand that runway, that the port does plan to modify its airport -- airpark master plan to accommodate that once the UGB expansion has been completed. There's no
controverting evidence whatsoever about that, none. And it kind of gets to the chicken/egg kind of idea does the airport amend its airport plan to expand the runway, so the city can subsequently amend its UGB to accommodate the runway or does the city do that first and the airport do it second. I think the answer's found in Goal 14. It's a simple answer I think. Goal 14 says we -- that cities adopt urban growth boundaries to include projected needs for employment land. So with the port coming in testifying that they intend in the future to expand that -- that runway, certainly the city has authority to expand the UGB by that 54 acres to accommodate that expanded runway. With regard to Objection Number 10 relating to the 40-acre hangar, again, there was testimony in -- in the -- there is testimony in the record from the air -- from the port manager indicating that part of their master plan is to use that 40 acre parcel for expansion of hangar activities at the airport, so there's evidence in the record to support that. With regard to Objection Number 11 relating to certain developed sites not being counted, Jessie, do you -- there's a long analysis of that in my letter. We go through each and every one of those items. The one that is kind of a close call, I think, and we'll just be blunt about it, there is a 44-acre site that has been subdivided, has gone through the subdivision process, so it's been parcelized. It's been developed. In other words, streets have been built and taxiways have been built to connect that 44-acre parcel to the runway. What hasn't happened is buildings haven't been built on that -- on that acreage. I think two -- is it two of the owners have gone through a Planning Commission process to get development approval to build building on that property but because of the economy in 2009, they decided not to go forward with those projects at that time. So the question is: Do we count that property as developed or not? And if you look at your -- your definition of vacant land, it's land that -- I better be real specific about it here. Vacant land is a lot or parcel equal to a larger than a half-acre, and these are larger -- larger than a half-acre, not currently containing permanent buildings or improvements. Well I don't think there's any question that that acreage doesn't include permanent buildings. The question becomes whether
that acreage includes improvements. And probably, the bigger question is a tougher one which is when you're going through this process and someone owns a piece of property and as you're going through your UGB amendment process and someone has a piece of vacant land that is in the process of being developed, do you count that as vacant or not? I don't know the answer to that question. I just don't. If you take a real strict reading of vacant land, it says containing permanent buildings or improvements. Then the question becomes: What are improvements? That land has been improved with streets. It's been improved with taxiways. It hasn't been improved with permanent buildings. Our view is that if you've gone through a process, if you own a piece of property and if you've gone through a local land use process and you have received approvals from the local jurisdiction to divide that property, and if you've relied on those approvals to build roads and build taxiways in this case that that constitutes improvements so that allows that to come off, to -- to not be counted as vacant land. But I'll be blunt with you, that's your call to make as to whether it falls within your definition or not. I think there's arguments that can be made one way or the other.

MARILYN WORRIX: Well if you go back to the whole purpose of -- of looking at vacant land it's to see how much of the proposed need can be accommodated by the -- by the vacant land.

JEFF BENNETT: Correct.

MARILYN WORRIX: And the buildings that will be built there are going to accommodate some of your future need.

JEFF BENNETT: Understood.

MARILYN WORRIX: So I don't know how you'd not count them.

JEFF BENNETT: Yeah. And certainly there is -- if you have trouble with that -- I can't remember if it was 40 or 44 acres that's in there. It you have trouble with that, there is an area to the very, very northeast of the UGB that has 40 acres that the city probably could remove. That brings us to Objection Number 12 regarding PCC. There's
evidence in the record that there's a -- that there is a -- a preliminary agreement between
the owner of the property out at the airport -- airpark and PCC to develop a -- I guess it's
not really what would be called a campus but facilities, educational facilities at that
location. Mr. Sheehan minimizes that agreement saying well, you know, that agreement
could get torn up tomorrow. You know PCC, yeah, they're pulling out of Columbia -- or
Columbia County. You really can't rely on that. Well I guess the question is what can
you rely on? Is it reasonable in the UGB process for the property owner to have actually
entered into a binding contract before the city can conclude that it's reasonable that that
piece of property is needed for a PCC campus? I submit to you that it's not. That the
record does not need to go that far that there has to be a binding commitment between
those two parties before you can justify that use. Clearly, PCC has indicated a high level
of interest in locating at the airpark and Mr. Sheehan questions why would an educational
institution ever locate there. Mr. Sheehan's a lawyer. He's not an educational locational
planner, so I'm not sure how much his query, how much weight should be given to that.
But the bottom line is that there's testimony in -- in the record that indicates that the PCC
is interested in having a facility there that deals with emergency planning and teaching
and training people how to deal with emergency planning. And a lot of times that deals
with, you know airports and getting in and out of places and things of that nature. So
there's reasonable evidence in the record that makes sense that that would be a location
for that kind of facility. I think that's all the comments I have. Does anyone else --?

MARILYN WORRIX: Any other questions? We're going to have to move on to
deliberations here soon.

SHERMAN LAMB: Yeah, I've got a few questions --

MARILYN WORRIX: [Interposing] But now's the last chance so.

SHERMAN LAMB: I'm going to start with the last point that you -- that you
brought up. Did PCC ever appear before the city and -- and offer its assurance that it was
interested in that parcel?
JEFF BENNETT: No, it did not. And there are reasons why it didn't but they're not on the record so I can't tell you what they are.

MALE SPEAKER: There is a newspaper article that may [INAUDIBLE].

MALE SPEAKER: I saw a reference to the newspaper article. I saw a reference to the agreement but I didn't see anything that PCC --

MALE SPEAKER: PCC did not appear.

SHERMAN LAMB: Did not, okay. Okay, other questions. Regarding the capture rate there's -- there is reference in the objections to a LUBA case. It's just 1000 Friends versus City of North Plains and it's referenced on page 30 of 48 in the objections. And I'm going just paraphrase it 'cause this -- this isn't a direct quote. This is a paraphrase. LUBA has held that if a city located outside the Metro UGB wishes to plan to capture growth currently anticipated to occur within the Metro UGB, then it must specifically coordinate that desire with Metro and the affected units of government within the Metro UGB. So my question is I didn't see any reference that that -- that that effort has been made. Has -- has it been made and -- and tell me about it.

MALE SPEAKER: Just reading off this, first of all, we weren't assuming growth that Metro was assuming to capture in the UGB. We were capturing growth Metro's assuming doesn't land in the UGB. So it's a very different case. In that case, they were looking at land constraints in North Plains and North Plains says look, we could outcompete Hillsboro for some of this residential. In this case, this is employment land that isn't forecasted land in the Metro's UGB. It's employment that's forecasted land elsewhere.

MALE SPEAKER: But isn't there references in your --

MALE SPEAKER: Well in the materials, there are references to the fact that Portland, the Metro UGB doesn't have sufficient land for some of the growth that they -- that they forecast. That sounds to me like you are attempting to capture employment that
would otherwise take place within the Metro UGB if they had appropriate lot sizes and that kind of thing.

MALE SPEAKER: Well we did a deal talking about that in the EOA, but the point of that is that Metro can't accommodate the employment, which is one of the reasons why they're taking so much employment and allocating it elsewhere is they recognize that they can't accommodate it. And some of that's just documenting the fact that for certain industries, those are probably the industry types we think that are going to have the most difficulty accommodating. So those are most likely going to be the ones that would be part of the -- if we take 73/27 split the 27% they're not accommodating is going to be probably disproportionately large lot and other type users that are consistent with what Metro doesn't have in their inventory.

MALE SPEAKER: Commissioner Lamb, if I could direct you to -- and I don't have your paginated materials, but if the EOA is in there -- you don't have that, yeah. So you don't have the -- if -- at page 28 of the EOA, there's a discussion of the Metro Urban Growth Report and the forecast for how much of the employment that is anticipated to occur in that area will actually -- is -- is expected to not be accommodated within the UGB. That's why the North Plains case does not apply. North Plains as -- as Mr. Johnson indicated North Plains basically said we want to try to take some of the growth that's expected to occur in the Portland UGB and LUBA said, no, you can't do that. We're doing the direct opposite of that. Metro is saying there's a certain amount of growth that is expected to happen within the Portland SMA that we're not going to be able to accommodate inside the Metro UGB. Therefore, it's going to go outside the Metro UGB. What we're saying is that of that roughly 400,000 jobs that Metro says we can't accommodate inside our UGB; we're saying we will capture 1.9% of those jobs and that's the distinction.

SHERMAN LAMB: Okay. And does that analysis take into account that Metro has just recently gotten approval for an expansion of their -- of their employment lands?
In other words, the lot size deficit that you're talking about seems to me it was addressed in Metro's recent --

JERRY JOHNSON: Metro's recent one addressed part of it. It didn't address all of it but it's still -- it's still trying to attempt to play with how it can accommodate that 73% and it didn't actually hit the numbers; it internally generated it needed to meet the 73% of employment growth from the MSA. They've gotten closer. They're -- they're more likely to get closer to 73% than they were before but still they haven't gone beyond where they're expecting captures beyond the 73%. They're still trying to figure out how they're going to get to 73% and when Portland's done and say that they've got a 600-acre problem and Hillsboro's already said they've got a several hundred-acre problem, the 73% is going to be a challenge unto itself, much less taking it to a higher level.

MARILYN WORRIX: Any other questions? Thank you.

MALE SPEAKER: Thank you very much.

MARILYN WORRIX: What are you all thinking? You're all so quiet. Who would like to share their thoughts on this first? Sherman?

SHERMAN LAMB: Yeah, I as it may have become evident from -- from the questions and that I was asking I find this to be an extraordinarily high amount of -- of [inaudible]. They're asking for a lot of land. They're asking -- they are anticipating job growth that -- that although they have made the claim that it's based on substantial evidence, frankly, I didn't see substantial evidence that would justify this much land. I'm also troubled by -- I'm troubled by the fact that PCC hasn't appeared to establish the need for that 20 acres. Now I -- that 20 acres may indeed be needed, but there's just a couple of hearsay comments that sort of say, yeah, PCC's interested but -- but there's no -- there's nothing more direct than that so I -- I'm troubled by that.

MARILYN WORRIX: Okay. Catherine?

CATHERINE MORROW: I think that the letter here that I had the benefit of reading in advance of this hearing and the testimony that we've heard today satisfies my
concerns about the amount of land. I am very sensitive to the comments about citizen involvement and the perception that information that was submitted during the multiple hearings was not taken into account, but I also understand what the law says about that and that we do have these rolling, moving targets and these processes take forever. And you have to be able to put some sideboards on that and I think that the -- the city and their consultants have met their burden.

Marilyn Worrix: Okay. Greg?

Greg Macpherson: This is a lot of land with high aspirations. And what -- the dynamic that we've seen in other communities that are within sort of commuting distance of the Metro area but -- but with their own separate urban growth boundary process is that they don't -- are not subject to the constraints of coordinating with the aspirations of others the way that those inside the metro area UGB are. And so we -- we've seen in several examples and this is just the most recent one, sort of a high aspiration kind of -- kind of aims and this is just a lot of land. I mean should there be maybe some land in order to try to juice up the -- the employment base in that community? That seems like it's a good planning goal, but this just seems like a lot. And when I look at the -- the -- the basis for disregarding certain pieces of property that was described in Objection 11, they are -- they look to me as though parcels that had had half acres of use on that was developed on a five-acre parcel could be disregarded as not -- as being built out in effect was the way -- my takeaway from the response and that seems like a pretty sort of dismissive kind of response. So and if I followed something that was said by the -- there late in the presentation of responses, I think it was identifying some portion that maybe they weren't as confident should be brought -- should be -- remain part of this if -- if --

Marilyn Worrix: The 40 acres.

Greg Macpherson: So it's the 40. So I'm just wondering whether there's a split-the-baby solution here that would -- would cut back a bit on what I think may be
over the top aspirations without, you know, still respecting the fact that this is a community that's trying to, you know, do right by its people and by its future. But I just wonder if they haven't given the where we are in history and -- and -- and sort of the projections or the experiences and the -- that they're tying back into and trying to project from whether this isn't too much.

MARILYN WORRIX: Tim?

TIM JOSI: Well I'm also going to side on behalf of -- of cities. That's always been my -- unless their requests are over the top. Now this one is pretty aspirational and I recognize that, but I also appreciate it and the fact that -- that they followed the public process properly and that staff recommends that we approve the director's recommendation to approve is good enough for me.

MARILYN WORRIX: Okay. Jerry?

JERRY LIDZ: I'm not quite sure where I come out on this yet and I share the concerns that Greg and Sherman have expressed and I think two good -- two examples of this. One is the idea that you'll have more jobs than people in the city seems unrealistic to me even accepting the fact that it's there are people living in the rural areas outside of the city. Surely, Scappoose has some people who are -- some residents who are children who go to school and some retired people who aren't working and if you factor in the average numbers, you have more jobs than residents and that for each new resident, you're going to have more than -- I think it's 2.4 jobs over the next 20 years. That's a little too aggressive for me. And I guess the way -- and the other concern I have is with the roughly 40 acres where -- that really are available for growth that are properly zoned and just because the infrastructure is there I don't think those lands should be considered unavailable. At the same time, I kind of understand. I admire and appreciate the strong aspirational goals. My problem is if it's a close call on one of those factors that goes into the analysis, I'd say, okay, there is substantial evidence in the record to support that one. I may see it as a 30% chance that that will actually play out that way but we can defer to
the city on substantial evidence grounds. But when you stack those aggressive assumptions one on the other, I don't know that it holds up very well. I mean, if you take something that is a one-in-three proposition, you know, that may be fine. But you take two of those the chances that it plays out, you have to multiply that to get that probability and instead of one-in-three you have two one-in-three chances, it's a one-in-nine chance. And you have three of those, it gets even less probable or less likely. So that's what I'm wrestling with. I don't mean to say I think that the projection is that unlikely. I just offer than to illustrate the problem that it's one thing to make one or two aggressive assumptions. It's another thing to make half a dozen of them and that's my concern here. So I'm concerned particularly with the number of jobs projected and with the 40 acres. Also would like to take a minute just to address the Goal 1 objection that Pat Zimmerman raised cause I think it's an important question. In my view at least, the law Goal 1 does not require that any time somebody raises new data or brings in updated data that the city's analysis necessarily has to consider it. I think Mr. Bennett's response was it has to be reasonable overall and I think that's probably the correct term. You can't -- the city can't afford to ignore stuff that is coming in that is totally going to change the analysis. At the same time, you can't expect the city to redo the EOA every six months when new data comes in. And I don't know exactly where that sweet spot is, but I don't think the law requires quite as much as Pat may have suggested, but I also think it requires a fair -- something fairly close to that and I don't know quite where it is but I don't think that's a black and white kind of answer, so.

Marilyn Worrix: Anne and Tom, could you come back up? Surely you shared some of the concerns that you've heard expressed by Commissioners. How did you get over it?

Tom Hogue: Good question. So for the record, Tom Hogue, Economic Development Specialist for the Department. So I do this a lot, so in the beginning, there is a community --
MARILYN WORRIX: No, we’re -- not that way.

TOM HOGUE: Yeah, community objectives --

MALE SPEAKER: Is this Adam and Eve or what?

TOM HOGUE: In the beginning, there's a community objective. In the end, they have to implement that and that's what they care about. In the middle is the Goal 9 rule, which describes a process and that's what we care about. And so the city has a process obligation. It must examine trends, things will influence its future. That does not mean that its planning is tied to an employment forecast, a population forecast, or any other particular method. There are no particular limiting or demanding criteria in the Goal 9 rule. It is an information process. It says inform yourself and make a reasonable decision so it has to look at those trends. It has to consider what kinds of site types it needs to achieve its objectives and its aspirations. I'll just use that word. It's not a dirty word. Then it has to do an inventory. Now that's a factual examination, but it also has a policy component where you apply suitability criteria in order to have sites that meet your objectives. You're not stuck with acreages that don't meet those objectives. And then the final part of the EOA process is to estimate the number of sites that you'll need, again, to meet your objectives. And so in reviewing the record that was produced, they've clearly done that process. There are no criteria that they have to meet other than to have this process and so the question for us became, and you'll see in this -- in the director's decision that we cast all of these objections in the same light. It was a substantial evidence question and so at that time, the Department requested from the city that chart, which you'll see as Appendix A in the Director's decision and that's been mentioned before. I didn't have the letter that was delivered to you today when I made those decisions. I got it today as well and haven't read it, but don't feel I need that in order for the Department to respond the way it -- it did is that the City has met its obligation and I think that's -- that's where I'll leave it. And so it's not for me to -- to judge whether their objectives were their right ones. My role was to say did they do this process correctly
and I believe they did, and are their outcomes reasonable, and I think that they are.

Scappoose, I always pronounce it incorrectly as well, is uniquely situated. It not only has an airpark, which is, I think, is good industrial ground and it not only has proximity to a metro area, and it not only has probably one of the better transportation links out of the metro area up to the northeast. It's sort of at the end of that highway improvement. It also has something that places like Hillsboro do not, which it has a -- it has more convenient access to I-5 through Longview than Hillsboro does through its highway connection. It's really something different there and I think, as Goal 9 specifies, you are to do this planning based on your opportunities. It's an opportunities analysis. You're not -- you're not constrained to a historical math exercise. And, again, I think the question before the Commission is (a) did they do the -- meet their process obligations and I -- we would say that they did and have they met to your satisfaction their substantial evidence question. And if you find not, you've got some documentation pushing back on you. I think the city did a good job assembling the record of their deliberations in order to support their substantial evidence claim. That's really the only one we’ve seen in the past that's had any traction on pushing back on Division 9 planning efforts by cities. 1000 Friends has used that a number of times, not prevailed on that question at the court as of yet. They've prevailed once on a suitable site definition but I don't even think they prevailed on that. They got clarifying language. So it think -- I think we're all within the policies that have been laid out by the Commission in the Rule.

Marilyn Worrix: Did you push them on the 44 acres?

Tom Hogue: You know, I did because and you'll see in the staff report we said that the city had to prote -- provide testimony today whether that site was omitted from their inventory by some kind of error and I think they've explained that pretty well. And then we leave it to the Commission to decide whether that's a minor and technical error or if that demands a remand. The city's offered to do a land swap and if the Commission were to remand that and not direct otherwise my advice to the city would be to go back,
fix your inventory, readjust your estimate of needed sites and come back with the same plan. When you lay out an airpark plan you are planning for I think rational purposes and just plucking chunks out of it may or may not make sense and I leave it to the Commission to figure out what they wish to do in this circumstance.

MARILYN WORRIX: You want to add anything, Anne?

ANNE DEBBAUT: It's be hard to add to that I think. Thank you.

MARILYN WORRIX: Okay. All right, thank you.

CATHERINE MORROW: I have a question. Maybe we could see the map again?

MARILYN WORRIX: It's just before your --

CATHERINE MORROW: Well no, I meant the big one. So I think the city said regard -- I have the map of where the 44 acres is, but they talked about, oh, well if -- if the Commission, you know, wanted to --

MARILYN WORRIX: I see.

CATHERINE MORROW: -- not allow the 44 acres that they -- there was a place they could readjust it. Do you know where that is?

TOM HOGUE: I don't. That was the first I've heard of that offer, Catherine.

CATHERINE MORROW: I guess we'll have to leave that to them then.

MARILYN WORRIX: We will ask you to come up and just point where the 40 ac -- show us the 40 acres that wasn't counted and the potential 40-acre removal.

MALE SPEAKER: All right so the pieces that [INAUDIBLE] subdivision that --

MARILYN WORRIX: Michael, yes. Come on up so you can see.

MALE SPEAKER: -- [INAUDIBLE] plans for the largest piece on that 17-acre piece and a few more parcels down here have the same [INAUDIBLE]. We expected those to come in during the process but that [INAUDIBLE]. So this is where we're talking about right here. On the -- the expansion we have a similarly sized piece up here and that's -- that's probably where we would take it out if we took it.
MARILYN WORRIX: What do you lose in terms of the integrity of the whole piece if you take that out?

MALE SPEAKER: Well there's -- there's a road system, so we have to keep the road system intact so there'll just be a hole between these properties and the road. That road has to be -- there has to be a road.

MARILYN WORRIX: Okay.

MALE SPEAKER: Excuse me, is that road in existence now cause it said proposed on the map?

MALE SPEAKER: Right, it's proposed. But we have to have it in order for this to work [INAUDIBLE].

MALE SPEAKER: Now there are rotations on how much you can squiggle that road up here because it's in the -- there's -- well why don't you explain that connection.

MALE SPEAKER: There's -- there's a road right up here already that [INAUDIBLE] that kind of comes along the top and then it comes back into this rural residential subdivision. But in order to make the turn for the [INAUDIBLE] you need -- it should be a curve not abrupt and not normally so that's -- that's we have the [INAUDIBLE].

MARILYN WORRIX: Okay.

MALE SPEAKER: And just for the audio record, that's record page 253 we've been looking at.

MARILYN WORRIX: Yes, thank you. Okay, thank -- thank you --

MALE SPEAKER: [Interposing] Other questions that --

MARILYN WORRIX: Any other questions for the staff? You've all sort of expressed your opinions and concerns. I too am very torn on this. I feel as we give more and more flexibility in terms of determining employment land we're getting further and further from the whole concept of need that exists in Goal 14. I know we've allowed more as time went on and for good reasons with economic difficulties. This is the most
aggressive on e that I've seen. I'm more concerned about the 44 acres not because of the size of the piece, although it is a fair amount. But it just seems so obvious that it should have been counted because it's going to provide buildings to accommodate some of the need. It just looks like doing everything possible to -- to make the numbers as -- as big as possible because that's just such an obvious thing to have done. On the other hand, sometimes we wish our bar was higher; sometimes we wish our bar was lower depending upon where we are. And the bar that we have on this is just simply a reasonable justification. And I think it's a bit of a stretch here. I would feel more comfortable if the 44 acres was --- was addressed by removing another piece but it seems foolish. You're just going to create a little piece out there inside the road that is not -- you -- you're trying to protect farmland. You're not protecting any farmland by doing that. So I'm inclined to join with Tim in approving this but I'm really concerned about the direction that we're going and that at some point we're going to have to say enough is enough. We've lost sight of -- of any kind of control of the employment land.

MALE SPEAKER: I'm prepared to make a motion.

MARILYN WORRIX: Is there any other discussion first? Any other comments? Okay.

MALE SPEAKER: Madam Chair, I move that the Commission deny the appeal and approve the Scappoose -- Scappoose UGB amendment.

CATHERINE MORROW: Second.

MARILYN WORRIX: All in favor?

MALE SPEAKER: Madam Chair.

MARILYN WORRIX: Yes.

MALE SPEAKER: Make that motion include finding that -- that that inventory error is minor in a technical nature.

MARILYN WORRIX: Was there another one that was minor, too?

MALE SPEAKER: I think that's the only one.
MARILYN WORRIX: The only one. Okay.
MALE SPEAKER: And that's per my motion.
MARILYN WORRIX: Okay, thank you.
CATHERINE MORROW: And a second is not required?
MALE SPEAKER: I don't believe it is.
MARILYN WORRIX: Yes, a second is required, yes.
MALE SPEAKER: Is it?
MARILYN WORRIX: Yes.
MALE SPEAKER: Have we been -- okay.
MARILYN WORRIX: Yeah, we have. Okay all in favor say aye.
COMMISSIONERS: Aye.
MALE SPEAKER: So, Madam Chair, if I may, we're about to move to an item
where we talk about adjustments to our policy agenda. One of the things that you might
consider directing us to do is exactly what you just said is -- is bring in front of you a
conversation that talks about employment land. Is it a regional issue? Is it an issue
strictly within the bounds of the UGB tied to UGB population or is it somewhere in
between? And I think we're probably ready for that kind of conversation.
MARILYN WORRIX: I agree, thank you.
MALE SPEAKER: Could we have a five-minute break?
MARILYN WORRIX: I'm sorry?
MALE SPEAKER: Could we have a five minute break?
MARILYN WORRIX: Yes. We'll take a ten-minute break and then -- five
minute break.
MALE SPEAKER: We're going to lose Richard sometime soon.
[End of audio]
CERTIFICATE

I prepared this transcript of the digitally recorded and supplied to me by the Oregon Department of Justice. I declare that this transcript of those proceedings is true and accurate to the best of my abilities.

DATED: April 1, 2013

Carolyn S. Daigle/csd
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