I want to call the commissioners attention to the discussion in my Objections under the Section marked Goal 9 - Economic Development (Page 8 of the pdf online). I point out that Washington County has not been a growth source of either high-tech or manufacturing jobs since 2000. I offer my best estimate of why that is true, how unfortunate choices by the county and the state have contributed to that, and some analysis of how little value we have gotten from the employers who have moved here.

It is clear that we are in even bigger trouble economically than the United States. If my explanation for this trouble is correct, things are much worse than most people, including politicians, staff (at Metro, counties and DLCD) and the public understand.

Exceptions:

My exceptions will be about the analysis applied to my Objections. This analysis can be found on Pages 39 through 41 starting with the Section labeled: G. Joseph C Rayhawk (Ref 7).

I will mention exceptions to the analysis of other objections only when they relate to mine.

DLCD's analysis includes some clerical errors (mis-referencing my objections) as well as some substantive mistakes.

Exception to DLCD analysis of my 1st objection, Page 39 bottom labeled:
1. Change of a portion of area 7B from urban reserve to undesignated violates Goal 2.

My objection was based on the public testimony at the Joint Metro Washington County hearing where it was discussed that the reason for leaving this small area undesignated was to allow for the building of a new road. DLCD references text in the Metro findings about the decision being done for other reasons. If so, that appears to be misleading. DLCD then states that I do not recommend a remedy.

This is false. I actually recommended two remedies.

I recommended that this area be designated as either Urban or Rural Reserves. Leaving it as undesignated implies that it will be brought in after the Urban Reserves are consumed. It does not make sense that it would be left isolated when and if the nearby Urban Reserves is moved into the UGB. Leaving it outside the UGB while the other area is moved into the UGB would subject it to all the same problems that have been discussed for all agriculture areas near areas actually urbanized. From the record, it is obvious that there are no buffers between this area and the Urban Reserves area. It makes no sense that it not be one or the other.
The second recommendation is far more important. I attended the LCDC hearing in which you decided that new roads cannot be built through either Rural or Urban Reserves. In particular, they cannot be built through Urban Reserves until those areas are planned as part of bringing them into the UGB. Initially I thought that applying the rule only to Rural Reserves was important. My mind was changed by the wise discussion of the LCDC itself.

My recommendation, as stated in my objections, is that LCDC revise its rule to give Undesignated land the same protection given to Urban and Rural Reserves. This is especially obvious on land that was designated Rural Reserves up until the most recent change especially that which is Foundation Farmland. One would expect and hope that such land would be among the last taken into the UGB.

An actual example of a poor road locating decision:
I am participating in the North Bethany planning process. As I mention elsewhere in my objections, part of the 800 acres bought into the UGB in 2002 (Arbor Oaks) was allowed to be built before the planning for the main section was finished. An elementary school was built on the west side of the major North-South road (Joss Road) through Arbor Oaks while most residences are east of the road. A significant problem is that a large amount of traffic from the northwest corner of North Bethany will use that road. Much effort has gone into trying to re-align roads and intersections north of Arbor Oaks to get that traffic away from Joss Avenue. At the August 3rd, 2011 Washington County Planning Commission Hearing on Ordinance 739 (North Bethany implementation), it was stated by staff that the alignments were not practical. So, large amounts of traffic from the north will be using a road that children will be crossing to get to and from school. This will be especially dangerous during morning rush hour during the relative darkness of fall and winter cloudy and rainy weather. Arbor Oaks should not have been allowed to develop without planning for North Bethany.

The legislature recently passed a law that allows for building of roads through Reserves under very specific situations. I submitted discussion to my representatives and other legislators that was trying to explicate the wisdom of the LCDC rule by example. In particular, I discussed why the process of defining where a road went when considering only the optimal factors for the road would often be a bad decision for the agriculture land the road went through directly as well as for nearby agriculture and wildlife. It was likely that the best path for the road would be almost the worst path for the agricultural practice. Also, it was unlikely that the payment for the land directly taken would actually be adequate since land outside the UGB is worth far less than land in the UGB (perhaps by a factor of 50-to-1 judging by pre-2008 North Bethany prices). Finally, as been testified repeatedly in the Reserves process, an urban road through the rural areas has significant impacts on the adjacent farms, forest and habitat. None of those adjacent landowners would be compensated.

Exception to DLCD analysis of my 2nd objection, Page 40 labeled:
2. Areas 7A and 7B remaining Urban Reserve.
While not well stated, my objection is based on violation of Goal 9 Economic Development. I discuss at length that development in these areas is not economic in that it leads to less compact development that would require substantial increases in infrastructure. It is clear that neither the county nor the Metro region has sufficient resources to make the investments we need even if both industrial and home development is done compactly. As I argue at length about Goal 9 in my second major section, Washington County has not been a high-tech growth or manufacturing county since 2000. A major reason for this has been the underinvestment in
infrastructure, including roads and schools. At this point, urbanizing Area 7A and 7B will be a continuation of the process further crippling the ability of the county, the region and the state from competing for the kinds of jobs we desperately need.

I believe that other objectors have made compelling arguments based on other issues. I endorse many of their arguments as well.

Exception to DLCD analysis of my 3rd objection, Page 40 labeled:
3. Area north of Cornelius as undesignated.

It appears that the reason for leaving this land undesignated is to avoid having to justify to LCDC the earlier decision to make it Urban Reserves. Implicitly, this admits that the county did not believe they could make the case. It is clearly Foundation Farmland under great threat of urbanization. Also, as I said in my objection, it does not make sense to leave it undesignated unless the plan is to bring it into the UGB when it is decided that Cornelius needs industrial since there is no other available industrial. Bringing areas in under that argument was actually discussed by officials during the Joint Metro/Washington County meeting.

If I were a member of LCDC I would be offended by the attempt to evade the requirement from the LCDC to justify why this land should be included in land that can be Urbanized.

It appears that part of the argument from DLCD is that there is no authority to rule on any land that is left undesignated. Again, this is sort of a hole in the rules left there because people assumed that Metro and the counties would behave reasonably. This of course leads to the argument that the decision is arbitrary and hence violates larger general state and federal rules.

Perhaps the best summary of this is that this land will be subject to the same bad effects whether it is undesignated or is designated as Urban Reserves. Again, this is especially so if it perceivable to land-owners and to speculators that it would be brought into the UGB at about the same time regardless of which designation it has.

Again, other objectors have focused on the more specific reasons why this land should be in rural reserves. I support their objections.

I again recommend making the entire area Rural Reserves.

Exception to DLCD analysis of my 4th objection, Page 40 labeled:
4. Enlargement of urban reserve area 8B.

DLCD references their analysis to others objections. I disagree with their analysis of those other objections. There are two issues I wish to mention here

1) My objection is primarily based in Part on Goal 9 Economic Development. Development of this area is going to worsen congestion on the Sunset Highway. The congestion on this highway is a major embarrassment and a significant cause for high-tech employers to look elsewhere when considering relocating to the area. Also, we cannot afford to make the investments in infrastructure, including roads, water and sewer that we need to be competitive. Building out to this area will require larger sums and will divert it from where it is needed.

2) It is clear from other objections that neither Metro nor the Washington County Board of County Commissioners actually knew what was on the ground when they made their decision and when the staff subsequently wrote up the justifications. Wow, that is an interesting statement. It is clear from the record that the decision was based on incorrect information. If this is true, then the decision is not based on substantial information in the record.

Exception to DLCD analysis of my 5th objection, Page 40 labeled:
5. General objection to all land changed from rural reserve to undesignated or urban reserve after Fall 2009.
I have several exceptions to the DLCD analysis.

First, they conclude that my objections does not include changes made for the re-designation submittal. While it is true that my examples are from the earlier sets of recommendations, my objection clearly includes changes made in the re-designation submittal. DLCD recommends rejecting the objection without discussing the central issue of whether the original request met the balance requirement and whether a sequence of changes that increase the amount of urbanizable land does not in fact mean that balance was broken.

Second, DLCD mentions, as though it is a good thing, that the new submission includes less land in Urban Reserves. It also mentions that there is less land in Rural Reserves. Hmm, how can they both go down? Aha! The extra land is in an increase in undesignated. As I argue in reference to the Undesignated land near Cornelius, this is an increase in land that can be urbanized. This increase in undesignated that can be seen as likely to be urbanized before the end of the Reserves period includes the land near Cornelius as well as the large area south of SW Rosedale Road. I argue the two central points:

1) The other counties did not believe Washington County’s requests in the southwest areas were in balance, and attempted to separate themselves in the Fall of 2009. I believe this attempt is futile. The arguments made by others about Metro and Washington County taking Foundation Farmland near Helvetia and not considering more appropriate land in other counties is a valid argument. They repeat the very important point that the balance was to be achieved across the region.

2) The actual submission sent to LCDC for Washington County in 2010 included more Urban Reserves and less Rural Reserves than the version from which the other counties tried to escape. So, it was less in balance than the first version. The re-submission sent to LCDC in 2011 goes another step further.

There are two issues. First, LCDC may want to view the changes as trivial. Some are clearly not. I will repeat with respect to the Peterkort property, the decision is not trivial and is egregious in many ways.

Second, it is obvious that Washington County decided to designate as Urban Reserves or as Undesignated a series of properties that would have been made Rural Reserves using the processes of the other two counties. Hence, anyone whose property in the other two counties was designated as Rural Reserves, but whose case for Rural Reserves is less compelling than those of several areas in Washington County, is more than justified in trying to get fair treatment for themselves.

So, while DLCD and LCDC do not want to face the issue that Washington County did not act reasonably, they do the entire process a disservice in not facing this issue.

I participated in many meetings of the Multnomah County Citizen’s Advisory Committee on Reserves as well as testifying at and observing many hearings of the Multnomah County Planning Commission and County Board. I believe that they acted reasonably and made good faith efforts to apply the Reserves law and LCDC rules. They tried very hard to act in the common interest of the region. I am not as familiar with the Clackamas County efforts. What I have read in the two DLCD Reports and in other objectors’ statements suggest that Clackamas County acted perhaps even more thoughtfully and wisely than Multnomah County.

I also testified at and observed many of the Washington County hearings. It is my perception that many of its processes will not stand up to judicial examination. I go into considerable analysis of this in my objections, Others objectors do an even better job since they have much more experience and legal support.

Of particular note with respect to the most recent submission, Washington County voted to engross the ordinance at their first Board Hearing after the joint meeting with Metro. Although they accepted testimony at that hearing, if they had made any substantive changes based on the testimony it would have been very difficult to create the language to implement those changes at that hearing. However, if they wanted to make the changes, they would have had to wait one more hearing to engross the changes. Subsequent to engrossment, they have to have two hearings where they cannot make changes without restarting the clock and needing two more hearings. Also, they can only do the final vote on this kind of ordinance at their evening hearing which is at
the end of each month. As was stated by their staff at the hearings, if they made a change it would slip the final passage by at least a month. Also, it was stated the such a slip would mean they could not re-submit to LCDC in time to be on the schedule for 2011. Further, that would mean that they would not have Urban Reserves and could not get any land into the UGB in this cycle. It appeared then, and still appears, that Metro will make a UGB change decision this year. Hence, if the county commissioners honestly entertained any citizen's input and made changes, they would be cutting the county off from getting new UGB land for about 5 years.

I do not remember the specific issue that apparently intrigued County Chair Andy Duyck during one of the two post-engrossment hearings. He expressed frustration that it did not matter and the meetings were kind of a waste of time because they could not make any changes to the engrossed language.

I again recommend that all of the changes post December of 2009 be remanded with the exception of the isolated Urban Reserve piece that was re-designated Rural Reserve. Also, that the decision to designate Foundation Farmland in the southwest part of the county that led to the other counties attempt to separate themselves be remanded.

I want to reiterate two important points. I observed the Metro hearings where they considered approval of designating the Peterkort Property as Urban Reserve and the all-day joint hearing where they finally voted to accept Washington County’s bad decisions with respect to the 2011 re-submission. It is clear from the record of those meetings that Metro did not vote to accept those actions based on good faith analysis of the Urban and Rural Reserves factors. Instead, they acceded to Washington County’s decisions out of a desperate hope of accomplishing the Reserves process as a whole. The fact that staff was able in some cases to rationalize the decisions in submissions to DLCD does not mean that the decisions are supported by substantial evidence in the record. I believe DLCD and LCDC understand this, but are choosing to ignore it. You too believe that this is the way to preserve and complete this process. Unfortunately, this is probably doomed.

I mention again that my objections analyze the submission from Washington County about the Peterkort Property showing statements in that submission are false based on previous testimony by Washington County staff to LCDC itself. It is just not right for DLCD and LCDC to accept testimony from another government agency that you know is false and appears designed to mislead.