

To: Polk County Planning Commission and County Commissioners

From: E.M. Easterly {775 Fir Gardens St NW Salem, OR 97304}

Date: October 19, 2016

Re: Procedural Challenge to Polk County Legislative Amendment 16-02; Salem-Keizer Urban Growth Boundary Amendment and Amendments to the Polk County Transportation System Plan

In addition to written testimony previously submitted via the City of Salem I specifically challenge proposed findings offered by the Polk County Planning staff.

**Item #1. Goal 15 Willamette River Greenway**

Page 6 of the October 5<sup>th</sup> Staff Memorandum states:

“The City of Salem is taking an exception to Goal 15 (Willamette River Greenway) as part of the consolidated plan amendments. However, the portion of the Preferred Alternative within the Greenway is entirely within Salem’s land use jurisdiction, and Polk County is not taking exceptions to any statewide goals.”

The declaration that Polk County is not participating in the Goal 15 exception is contrary to the intent of both the Polk County Comprehensive Plan and Statewide Planning Goal 15. The area being proposed for exception is under the jurisdiction of Polk County and will remain under Polk County jurisdiction until the City of Salem and area jurisdictions participating in the Salem Area Comprehensive Plan change is adopted. As currently scheduled Polk County anticipates the adoption of the proposed Salem-Keizer Urban Growth Boundary Amendment prior to a similar adoption by the City of Salem. For Polk County to affirm the UGB change without also requesting a Goal 15 exception is contrary to Polk County Comprehensive Plan provisions cited below.

“The overriding purpose of the Willamette River Greenway is to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River.

GOAL 1. To protect, conserve, enhance and maintain the scenic, historical, agricultural, economic and recreational quality of land along the Willamette River.

**POLICIES**

1.1 Polk County will cooperate with governmental agencies and special districts to protect all Willamette River Greenway lands and resources.

1.3 Polk County will develop a Greenway implementation method that will include:

b. Exclusive Farm Use zoning, floodplain zoning, open space zoning and other land use considerations; and

c. Provision in an ordinance for the review of intensification or change of use of developments to ensure their compatibility with the Willamette River.

Since the proposed Polk County Comprehensive Plan amendment fails to meet any of the cited Willamette Greenway goals or policies, it is incumbent upon Polk County to request an exception to the

Willamette Greenway Goal 15 provisions that include:

## E. COMPREHENSIVE PLANS OF CITIES AND COUNTIES

**2. Uses:** Each comprehensive plan shall designate the uses to be permitted for the rural and urban areas of each jurisdiction, which uses shall be consistent with the approved DOT Greenway Plan, the Greenway Statutes and this Goal.

## F. IMPLEMENTATION MEASURES

**3. Greenway Compatibility Review:** Cities and counties shall establish provisions by ordinance for the review of intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway. Such ordinances shall include the matters in a through e below:

a. The establishment of Greenway compatibility review boundaries adjacent to the river within which review of developments shall take place. Such boundaries in urban areas shall be not less than 150 feet from the ordinary low water line of the Willamette River; in rural areas such boundaries shall include all lands within the boundaries of the Willamette River Greenway;

b. The review of intensification, changes of use and developments as authorized by the Comprehensive Plan and zoning ordinance to insure their compatibility with the Greenway statutes and to insure that the best possible appearance, landscaping and public access are provided. Such review shall include the following findings, that to the greatest possible degree:

- (1) The intensification, change of use or development will provide the maximum possible landscaped area, open space or vegetation between the activity and the river;
- (2) Necessary public access will be provided to and along the river by appropriate legal means;

c. Provision is made for at least one public hearing on each application to allow any interested person an opportunity to speak;

d. Provision is made for giving notice of such hearing at least to owners of record of contiguous property and to any individual or groups requesting notice; and

e. Provision is made to allow the imposing of conditions on the permit to carry out the purpose and intent of the Willamette River Greenway Statutes.

Absent adoption of an exception to the Polk County Comprehensive Plan Willamette Greenway element Polk County lacks the ability to affirm changes to the Polk County Transportation System Plan element of the Polk County Comprehensive within the Willamette Greenway.

### **Item # 2.** Goal 1: Citizen Involvement

My original written testimony, No. 15 on the City of Salem Testimony website, challenged the public involvement process. That document contains a typographical error in the fifth paragraph. The sentence should read:

“Contrary to Goal one requirements there has been no opportunity for community members to review and consider the multiple reports and finding offered by the City prior to the initiation of the formal **CA 2016-04** quasi-judicial process.”

There are three provisions of Goal 1 that have not been assiduously followed by Polk County.

**1. Citizen Involvement** -- To provide for widespread citizen involvement.

The citizen involvement program shall involve a cross-section of affected citizens in all phases of the planning process. As a component, the program for citizen involvement shall include an officially

recognized committee for citizen involvement (CCI) broadly representative of geographic areas and interests related to land use and land-use decisions. Committee members shall be selected by an open, well-publicized public process.

**3. Citizen Influence** -- To provide the opportunity for citizens to be involved in all phases of the planning process. Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures.

#### C. CITIZEN INFLUENCE

**6. Revision** - The general public, through the local citizen involvement programs, should have the opportunity to review and make recommendations on proposed changes in comprehensive land-use plans prior to the public hearing process to formally consider the proposed changes.

The City of Salem diligently engaged a citizens advisory body through the City Council selection of the “Preferred Alternative” Willamette River Crossing in 2014. However, Polk County appears to have provided no opportunity for Polk County citizens to review or make recommendations on the proposed revisions to the Polk County Comprehensive Plan and Plan Map prior to the initiation of the October 12, 2016 public hearing process. This is contrary to Goal 1 Revision process quoted above.

#### **Item # 3. Goal 12: Transportation**

The proposed modification of the Polk County Transportation System Plan (TSP) cites the Preferred Alternative Willamette River crossing as the identified future transportation facility linking Polk And Marion Counties. Absent from the proposed Polk County TSP Willamette River crossing are specific findings that address:

#### B. IMPLEMENTATION

2. Plans for new or for the improvement of major transportation facilities should identify the positive and negative impacts on:

- (1) local land use patterns,
- (2) environmental quality,
- (3) energy use and resources,
- (4) existing transportation systems and
- (5) fiscal resources in a manner sufficient to enable local governments to rationally consider the issues posed by the construction and operation of such facilities.

Absent such finding the revisions to the Polk County Comprehensive Plan Transportation