



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.oregon.gov/LCD



April 11, 2008

TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Rob Hallyburton, Acting Deputy Director
Teddy Leland, Operations Services Manager

SUBJECT: **Agenda Item 9, May 1-2, 2008 LCDC Commission Meeting**

COMMISSION REVIEW OF PROPOSED 2009 POLICY PACKAGES

I. AGENDA ITEM SUMMARY

This item includes the opportunity for public comment and Commission review of the department's proposed 2009-11 policy packages. Policy packages are requests for additional funding or expenditure authority to carry out new or revised programs. Agencies develop policy packages for a variety of reasons, including: formation of new, or expansion of existing, programs; and implementation of federal or other new sources of funds for programs.

A. Type of Action and Commission Role

The department requests Commission input and concurrence in the department's proposed policy packages.

B. Staff Contact Information

For more information about this agenda item, contact Teddy Leland at (503) 373-0050, ext. 237, or e-mail Teddy.Leland@state.or.us.

II. RECOMMENDATION

The department recommends that the commission accept public comments, deliberate on the proposed policy packages and provide advice to the department, and consent to the department's submission of policy packages. In some cases, particular packages may undergo further minor refinements as they are prepared for submission to the state Department of Administrative Services.

III. PROPOSED POLICY PACKAGES

State agency policy package final numbers must be prepared, along with a budgetary audit due to the Department of Administrative Services (DAS) Budget and Management Division by June 30, 2008. If proposed legislative concepts have fiscal implications, DAS also requires that the department's 2009 budget request address the legislative concepts.

A. Sustainable Communities Initiative

The department is proposing three related policy option packages under the single umbrella of the Sustainable Communities Initiative. These policy option packages are designed to position the department to play an active role in carrying out several policy objectives that are linked by the common theme of working with cities and counties to create a sustainable communities. The concept of sustainability encompasses a variety of facets, many of which are addressed or influenced by the statewide land use planning program.

The first package requests funding for one additional professional staff person to assist local governments and to work with the Department of Housing and Community Services in developing land use planning tools that support affordable housing. The second package requests significant additional funding both for staff, and particularly for technical and grant assistance to local governments. A portion of the funding for the second package is focused on support for economic development planning; another portion is focused on transitional assistance to counties that are severely affected by reductions in federal timber payments. The third package requests funding for staff and for grant assistance to local communities related to efforts to reduce greenhouse gas emissions and to provide for planning to adapt to alterations in natural conditions that will result from climate change (sea level, water supply, changes in storm intensity, and changes in vegetation). Each of these option packages is described in more detail below.

Policy Package 101: Affordable Housing Planning. This package addresses the need for sustainable communities to have tools that support the development of affordable housing. It is intended to integrate state efforts to promote and provide affordable housing with the statewide planning program. This package proposes funding for one professional position in the Planning Services Division. This specialist will work with local governments to implement policies enacted by the Land Conservation and Development Commission (LCDC) and other agencies, particularly Oregon Housing and Community Services.

Total cost for this package is approximately \$200,000 to \$250,000 General Fund.

Policy Package 102: Sustainable Community Development. This package has two main components. The first is to provide a significant increase in state grant funds for cities and counties – roughly doubling the current level of state support for local land use planning. The second component is to provide new technical tools to local and state decision-makers in the form of data bases and geographic information systems capacity to retain and manage information about city, county and state land use plans. Currently,

the state has no real GIS or database system for assembling or using information concerning local land use plans.

The proposed increase in support to local communities in the form of additional grant funds and training resources will include two targeted aspects: one focused on promoting land use planning to support economic development efforts, and the other focused on counties that have been most affected by the loss of federal timber payments. The overall increase in technical assistance grants would restore this aspect of the state land use program to a position that is close to the level of funding that existed before a round of budget reductions beginning in 2001. It also positions the department to be more proactive in working with communities to achieve their local vision of sustainability within the context of broader state interests. In addition, under this package the department would expand its training resources for local governments – particularly for planning commissions, city councils and county boards of commissioners.

The increased local and state capacity proposed in this package works in tandem with the policy-development and technical assistance features of the Climate Change Adaptation and Mitigation package (discussed below) to result in alignment of resource allocation (i.e., grant awards) with policy direction. The grant and training features of this Sustainable Community Development Package will enable local governments better address local needs regarding sustainability.

This package proposes establishing seven new positions, and providing approximately \$3 million in additional professional services and grants to local jurisdictions. Total cost for this package is approximately \$4.2 to 5.0 million from the state's General Fund.

Policy Package 103: Climate Change Adaptation and Mitigation. This is the final policy option package of the Sustainable Communities Initiative. This package will promote community efforts to reduce greenhouse gas emissions resulting from the transportation sector, and from residential development. The package will fund staff to:

- Collect, analyze and disseminate best practices for community planning and design to reduce greenhouse gas emissions from around the nation and world;
- Develop policy options for state, regional and local efforts to use land use planning to reduce greenhouse gas emissions; and
- Provide technical assistance to local communities concerning how to adapt to likely changes in natural conditions resulting from climate change.

The latter aspect of this package will include two particular areas of emphasis: long range planning for coastal communities to adapt to sea-level rise and storm intensity, and integration of land use and water supply planning in rural communities.

In addition, this package funds the restoration of two positions to the Transportation Growth Management (TGM) Program. Currently, funding for the TGM program requires that work have a direct tie to transportation priorities – making it difficult, and in some

cases impossible, to carry out needed work integrating land use planning and growth management tools with transportation planning.

This package proposes establishing seven new positions (including five professional staff), funding for grants to local jurisdictions, and professional services. Total cost for this package is approximately \$5.0 to 6.0 million from the state's General Fund.

B. Other Agency and State Priorities

The remaining policy packages stem from specific direction from the Governor's office, continuation of limited duration efforts (such as implementation of Measure 49), or are related to legislative concepts that the department is pursuing.

Policy Package 104: Ocean Planning. The Governor has charged the department's Ocean and Coastal Services Division with leading a broad-based planning process to:

- Prepare a comprehensive plan for ocean wave energy development;
- Assist the Commission in adopting administrative rules to adopt that plan as an amendment to the Oregon Territorial Sea Plan; and
- Submit the adopted plan to the National Oceanic and Atmospheric Administration for approval as an amendment to the Oregon Coastal Management Program.

In addition, the department will have important responsibilities to support the work of the Ocean Policy Advisory Council, and other state agencies (particularly ODFW) in the process of designating marine reserves, a process that will require significant coordination with wave energy planning and with other on-going ocean uses. This policy package will provide the resources necessary for the department to work with the Governor's Office, other state and federal agencies, and stakeholders to carry out an intensive, expeditious, multi-phase wave energy planning process and provide support to the marine reserves designation process of the Ocean Policy Advisory Council.

This package proposes establishing two new positions and related supplies and services, personal services contracts, and grants to local jurisdictions. Total cost for this package is approximately \$0.7 to 0.8 General Fund.

Policy Package 105: FEMA (Map Modernization). This package proposes continuance of one limited duration position established by the department's 2007-09 Legislatively Approved Budget for the Federal Emergency Management Agency Map Modernization Program.

This package proposes continuing one position and related supplies and services. Total cost for this package is approximately \$0.2 to 0.4 million Federal Fund.

Policy Package 106: Land Use Review. This policy package is a companion package to a legislative concept discussed and approved at the March 2008 LCDC meeting. The department recommends requesting a "placeholder" policy package pending

recommendations by the Big Look Task Force. The Task Force anticipates it will not have final recommendations for changes to the land use program until October or November of this year. As a result, the department is unlikely to be able to provide specifics for a policy package at this time to meet the June 30, 2008 deadline for DAS.

The task force is scheduled to refine its proposals in May through July 2008, and to conduct public outreach in August through October 2008. The task force expects to finalize its recommendations by November of this year.

This package supports a legislative concept. Total cost for this package is indeterminate pending additional information from the Land Use Task Force. It is anticipated that this program will be General Fund.

Policy Package 107: Measure 49. This policy package proposes continuance of limited duration positions established by the department's 2007-09 Legislatively Approved Budget. It is anticipated that implementation of Measure 49 will extend well into the 2010-11 biennium, as the department works through the approximately 6,500 pending claims requiring supplemental review.

Measure 49 modifies Ballot Measure 37 (2004) to ensure that Oregon law provides just compensation for unfair burdens while retaining Oregon's protections for farm and forest uses and the state's water resources. Measure 49 has two main parts: the first part concerns Measure 37 claims that were filed on or before June 28, 2007; the second part addresses new Measure 49 claims.

The department is required by Measure 49 to evaluate existing Measure 37 claims (those claims submitted on or before June 28, 2007) and to undertake a supplemental review of relevant Measure 37 claim(s). At the end of the supplemental review, the claimant will receive an order indicating what the claimant is approved for in terms of additional land divisions and/or dwellings. Since the department has only begun this work, a list of potential problems with the measure is not complete at this time, including issues that will give rise to litigation over unclear wording. This concept assures rapid and successful implementation of the intent of Measure 49, with a minimum of delay and litigation over unclear or problematic wording in the measure itself.

This package proposes continuing limited duration positions granted in the 2007-09 Legislatively Approved Budget and related supplies and services. Total cost for this package is approximately \$7.0 to 8.0 million General Fund.

Policy Package 108: Resource Land Conversion and Climate Change. This policy package is a companion package to a legislative concept discussed and approved at the March 2008 LCDC meeting.

The legislative concept would provide incentives for retention of the working resource land base, through transfer or purchase of development rights. It would involve cooperative effort with the Oregon Department of Forestry and the Oregon Department of

Agriculture, and would be intended to provide incentives for resource land to remain in active management, particularly forest management. The legislative concept also links to Oregon's developing programs to reduce the emission of greenhouse gases, and may involve use of carbon credits as a means of purchasing development rights. The department is exploring possible support from other organizations that may be interested or affected by land conversion, loss of forest products, infrastructure, and climate change.

This package supports the legislative concept and as such reflects a fiscal impact of one half-time position and additional Attorney General dollars to support the rulemaking and programmatic assistance needed for this effort. Total cost for this package is approximately \$120,000 General Funds.

Policy Package 109: Land Use Appeal Fees. This policy package is a companion package to a legislative concept discussed and approved at the March 2008 LCDC meeting.

The concept proposes legislation to improve the opportunity for organized citizen planning organizations to have effective access to their local government land use appeals process. The concept is still being developed, but may impose limits on local appeal fees or provide funding to reduce fees, where the appeal is brought by an organization that meets minimum requirements for community representation. Alternatively, or in addition, the concept may require that local appeal processes be limited to a single local appeal opportunity leading to a final decision that may be appealed to LUBA, rather than multiple levels of appeals. A second element of this legislation may also be considered – a requirement that if a local government decision is appealed to LUBA, and the appeal is where the local government does not appear to defend its decision, then the local government would have to refund part or all of any local appeal fee.

This package supports the legislative concept. Depending on its final design, it may involve a Ballot Measure 30 impact. Statewide research related to local appeal fees and number of local appeals is being carried out to estimate the potential impact of this concept on local governments. Total cost for this package may be \$100,000 General Fund is anticipated.

In summary, the department proposes the following policy packages and approximate dollar amounts and FTE outlined in Attachment A. These figures are subject to revision as the packages are refined. Final dollar amounts and position classifications/FTE will be determined in the next phase of policy package development.

IV. COMMISSION OPTIONS

The Commission may:

1. Accept the department's concepts for policy packages as described; or
2. Provide advice to the department to revise or modify particular policy packages; or
3. Provide direction to the department to add or delete particular policy packages.

V. DEPARTMENT RECOMMENDATION AND PROPOSED MOTION

Following public testimony, the department recommends that the commission authorize the department to continue developing the policy packages described in this report.

Proposed Motion: I move that the Commission accept the department's concepts for the policy packages described in this report.

Alternative Motion (1): I move that the Commission advise the department to revise the following policy packages in the following manner; or

Alternative Motion (2): I move that the Commission direct the department to add [or delete] the following policy packages from its submissions to DAS: ***

Attachments:

A. 2009-11 Agency Request Budget Proposed Policy Packages

Attachment A

**2009-11 Agency Request Budget
 Proposed Policy Packages**

Policy Package #	Title	Funding	Dollar Amount Approximation	Pos/FTE Approximation
Sustainability Initiative				
101	Affordable Housing Planning	General Fund	0.20 to 0.25 M	1/1.00
102	Sustainable Community Development	General Fund	4.5 to 5.0 M	7/7.00
103	Climate Change Adaptation	General Fund	4.5 to 5.5 M	7/7.00
Wave Energy & Marine Resource				
104	Ocean Planning	General Fund	0.7 to 0.8 M	2/2.00
Continuance of Limited Duration Programs				
105	FEMA (Map Modernization)	Federal Fund	0.2 to 0.4 M	1/1.00
Continuance of Limited Duration Programs & Tied to Legislative Concept				
106	Land Use Review	General Fund	Indeterminate	
107	Measure 49	General Fund	7.0 to 8.0 M	26/26.00
Packages Tied to Legislative Concept				
108	Resource Land Conversion and Climate Change	General Fund	0.12 M	1/0.50
109	Land Use Appeal Fees	General Fund	0.1 M	0/0.00
	Grand Total		\$17.4 to 20.2M (not including indeterminates)	45/44.5