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TO: The Land Conservation and Development Commission (LCDC)

FROM: Richard Whitman, Director
Michael Morrissey and Bob Rindy, Policy Analysts,
Department of Land Conservation and Development (DLCD)

SUBJECT: Agenda Item 8, July 30, 2009, LCDC Meeting

PROPOSED 2009-2011 POLICY AND RULEMAKING AGENDA

This item presents the department's recommendations to LCDC for the agency's 2009-2011 Policy Agenda. The department is recommending that the commission approve its policy agenda at this meeting, following public testimony and discussion. The commission first considered this item at its April meeting, and again at its June meeting, along with public testimony. The commission historically approves its biennial Policy Agenda in the late summer or early fall, and often revisits and revises the agenda later in the biennium. This year, the department suggested LCDC begin the Policy Agenda discussion earlier than in the past, in order to gain additional time during the 2009-2011 biennium to work on the projects reflected in the agenda.

Work on the tasks listed on last biennium's (2007-2009) Policy Agenda have been concluded, except for certain discussion groups (for example, regarding "environmental justice") that are still in progress. The commission's 2007-2009 policy agenda is included as Attachment A to this report (Attachment A also includes a brief report on the status of projects in the 2007-2009 policy agenda), and is available online at http://www.lcd.state.or.us/LCD/lcdc.shtml#2007_09_Policy_Agenda.

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I. SUMMARY OF THE DEPARTMENT'S RECOMMENDED POLICY AGENDA

A detailed version of the department's recommendation is provided in Section D, at the conclusion of this report. In summary, the department recommends that the commission adopt a policy agenda for the 2009-2011 biennium that includes three categories of projects, described below: 1) Required Projects, 2) Recommended High Priority Projects, and 3) Other Projects to be Pursued Based on the Availability of Resources. For the last two categories (those that are not required), the recommendations are listed in order, based on the department's assessment of priorities and feasibility.

A. Policy and Rule Projects Required by the Governor, Court or Legislature

1. Amend farmland rules for uses within three miles of an urban growth boundary and that involve the assembly of people, in response to recent decisions applying the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) to specific development proposals subject to these rules.
2. Revise the Territorial Sea Plan to include an element concerning alternative energy resources in the Territorial Sea, as ordered by the Governor (see Item 2 on the July 29 LCDC agenda).
3. Adopt rules establishing targets for Portland Metro's scenario planning to identify land use patterns that meet state greenhouse gas reduction goals, as required by the 2009 "Jobs and Transportation Act" (HB 2001).
4. Staff the Metropolitan Area Planning Organization (MPO) Greenhouse Gas Task Force (along with the Oregon Department of Transportation) to prepare legislative recommendations as required by HB 2186.
5. Adopt, by rule, the Metolius Area of Critical State Concern Management Plan, as required by HB 3286.
6. Adopt procedural amendments to the Measure 49 implementing rules, to carry out the adjustments made by HB 3225.
7. Adopt "housekeeping" amendments to LCDC's Goal 3 rules, as necessary, consistent with recently amended statutory provisions (HB 3099) for certain uses on farmland.
8. Adopt procedural rules to implement DLCD's "Oregon Transfer of Development Rights Pilot Program" authorized by HB 2228.
9. Update LCDC rules (division 35) implementing consistency requirements of the Federal Coastal Zone Management Act to address changes to NOAA federal consistency rules and other changes since the last (1988) update of division 35.

B. Recommended High Priority Policy and Rulemaking Projects

1. Begin to assist communities in preparing for the effects of global warming (see Item 16 on the July 29 LCDC agenda).
2. Address public facility finance and planning issues facing local governments, including those raised by the Big Look Task Force and local governments, and consider land use strategies and policy amendments to address these concerns.
3. Begin a work group to explore more fundamental changes to streamline and update statewide policy regarding urban growth management, including the priority of lands statutes as well as urban reserve rules.
4. Work with ODOT and the OTC to review implementation of the Transportation Planning Rule (TPR), including alternative mobility standards and STIP criteria.
5. Study and (as necessary) clarify the "forest lands" definition in Goal 4, and address possible rule inconsistencies (in division 6) related to that definition.

C. Projects to be Pursued Based on Resource Availability

1. Affordable Housing: consider the potential actions suggested by LCDC's 2008 Affordable Housing Work Group that appeared to have a broader consensus, including possible rules and/or legislation
2. Consider and (as necessary) adopt new rules to guide implementation of county farm and forest resource land rezoning authorized under HB 2229, and rezoning to nonresource use generally.
3. As an example of the type of policy-neutral audit authorized in HB 2229, study and consider current and potential new methods for population forecasts used as the basis for UGB evaluation and other planning.
4. As authorized by HB 2230, amend rules under OAR 660 divisions 30 and 31 and take other actions as necessary to update and streamline state agency coordination.
5. Consider amendments to LCDC's farmland rules in response to the Court of Appeals decision in the *Wetherell* case (relating to how profit is considered in determining whether particular land is farmland under Goal 3).
6. Form a broad work group to develop a consensus scope of work and work program for a neutral expert assessment of the state's destination resort program.
7. Convene a "farm stands work group" to consider concerns about farm stand sales of wine products

II. OVERVIEW OF LCDC'S POLICY AND RULEMAKING AGENDA

As part of its overall statutory responsibilities (ORS 197.040), the LCDC is required to "*adopt rules and ... any statewide land use policies that it considers necessary to carry out*" land use statutes. The commission is also required to "*review decisions of the ... [courts] to determine if goal or rule amendments are necessary.*" The commission is also required to "*adopt, amend, or revise goals consistent with regional, county and city concerns.*" In addition, ORS 197.646 requires the department to notify local governments when a new statutory requirement "*... requires changes to an acknowledged comprehensive plan, a regional framework plan and land use regulations implementing either plan...*" Furthermore, that statute requires the commission to "*... establish, by rule, the time period within which an acknowledged comprehensive plan, a regional framework plan and land use regulations implementing either plan must be in compliance with ... a new statutory requirement, if the legislation does not specify a time period for compliance.*"

As a general practice, LCDC adopts a Policy Agenda at the beginning of each biennium to prioritize and schedule policy and rulemaking projects throughout the biennium. While past Commission Policy Agendas have tended to focus on *rulemaking* projects, many other types of non-regulatory policy initiatives are often included, including research projects or participation in discussions or work groups led by other agencies. The commission also considers its Guidelines for Citizen Involvement in Goal and Policy Making (Attachment B) when considering the policy agenda and when working on projects listed in the agenda.

The commission should consider a number of factors as it evaluates this proposed Policy Agenda, including the estimated time or controversy associated with each project, available

agency and other resources (staff and commission resources, funding, and the commitments of other partners), existing and ongoing agency responsibilities (implementation of Measure 49, periodic review, review of UGB and urban reserve decisions, etc.), and other planning needs of communities throughout the state.

Measure 49 implementation is a critical department responsibility this biennium, and will require considerable department resources (possibly including resources beyond those now allocated to the division). Other key variables for the commission to consider are the number of jurisdictions entering periodic review, and the large number of (as many as 25) UGB (and urban reserve) decisions that are predicted to be coming to the agency for review this biennium. Assuring that the agency is clearly communicating the *current* requirements for UGB and urban reserve decisions to local governments and others, and that the agency is applying these requirements in a consistent and efficient manner is a very high priority for the department during this biennium.

III. POTENTIAL 2009- 2011 POLICY AND RULEMAKING PROJECTS

This section of the report contains a more detailed description of potential policy projects suggested by department staff and stakeholders via public testimony, small group discussions with DLCD staff, and informal discussions. This list was initially a collection of ideas provided in the staff reports to the commission at its April and June meeting. It has been refined substantially in response to input from local government, a broad spectrum of interest groups, other agencies and internal work sessions involving many department staff. The department's recommendation for the biennial Policy Agenda (See Section D of this report) was drawn from this list, although the recommended projects have (in some instances) been amended from the descriptions provided below.

The department does not have the capacity to pursue all or even a majority of the projects listed. While all of these policy project ideas would address important issues for the statewide planning program, and many are important to local implementation of that program, the recommended list of policy projects to be pursued this biennium cannot include all these projects. A number of ideas listed below are considered important by various stakeholders, including local governments. The department-recommended list (see Section D) reflects the limited staff resources for policy work and the demands and responsibilities for other work not related to policy. Items on the list that are not selected for this biennium's policy agenda should continued to be considered for the next biennium or for possible legislative concepts or 2011 budget proposals. In addition, the commission may wish to ask the newly-appointed Local Officials Advisory Committee (LOAC) for input on the policy agenda and consider that input in a mid-biennium refinement that takes the latest information on available resources into account.

The list of potential policy project ideas below is arranged in four categories:

- A. Projects Required by the Governor, Court or Legislature
- B. Recommended High-Priority Projects
- C. Projects Recommended Only as Resources Allow
- D. Projects Suggested For Continued Consideration, But Not This Biennium

A. Policy and Rule Projects Required by the Governor, Court or Legislature

1. Amend farm land rules to respond to the recent court decision regarding the federal Religious Land Use and Institutionalized Persons Act (RLUIPA)

Project Description: Recent LUBA and Court of Appeals decisions have determined that the LCDC rule that prohibits churches in EFU zones within 3 miles of a UGB are preempted by RLUIPA. The opinion states that the rule treats churches on less than equal terms with other secular places of assembly. The rule must be repealed or amended to be consistent with the court opinion and federal law. There are several ways in which the rule could be amended, including: 1) subjecting all uses involving “assembly” to the 3-mile limit, or 2) requiring that all “assemblies” within 3 miles of a UGB to “primarily serve rural areas.” Other variations may also be possible. Staff recommends appointment of a workgroup to study and make recommendations on this rulemaking.

Proposal: The rulemaking may also address other “events” on agricultural land, such as weddings, concerts and other similar uses involving assembly.

Recommended Timeline: Fall and winter of 2009.

Staff: Michael Morrissey, Katherine Daniels.

Predicted Workload and/or Level of Controversy: Medium to High.

2. Territorial Sea Plan Revision and Related Issues

Project Description: Revise the Territorial Sea Plan to include a plan for alternative energy resources including wave energy, as required by the Governor’s Executive Order, and address related issues. The department has been tasked by the Governor with preparing a plan for wave energy in the territorial sea by December 1, 2009 for adoption by LCDC as part of an amended Territorial Sea Plan. The commission already approved a rule advisory committee, and coastal staff is working with a subcommittee of the Ocean Policy Advisory Council on initial policy elements of the plan. Coastal federal funds are available to support the work (with local fishing groups) to map nearshore fisheries. The department has contracted with OCZMA to work through Ecotrust to carry out the mapping over the next 6 months. Text amendments to the plan will be ready for Commission approval in the fall of 2009. Map amendments should be considered in phases, and likely will not be finalized for an additional 6-12 months.

Proposal: Text and map amendments to the Territorial Sea Plan.

Recommended Timeline: Text amendments – fall 2009. Map amendments – 2010.

Staff: Paul Klarin.

Predicted Workload or Level of Controversy: Medium.

3. Jobs and Transportation Act - Metro Greenhouse Gas Reduction

Description: HB 2001, the Jobs and Transportation Act (JTA), directs the commission to adopt rules to guide development and adoption of “land use and transportation scenarios” for greenhouse gas (GHG) emission reduction in the Portland metropolitan area (the requirements are to be advisory to the Eugene/Springfield MPO). The bill requires the commission to adopt rules in June 2011 that set targets for vehicle-miles-traveled (VMT) reductions in the Portland metropolitan area estimated to meet existing state legislative goals for greenhouse gas emissions reduction. (The bill also requires the commission to adopt rules by January 2013 to guide the

development of regional “scenarios” – alternative land use plans that will achieve the required VMT reductions, along with rules regarding how the region will select which scenario to implement, and how cities and counties will incorporate the plan into each jurisdiction’s comprehensive plan and land use regulations.)

Proposal: Adoption of new rules by June 2011 setting GHG emission/VMT reduction targets for 2035 for Metro (Additional rulemaking is required in 2013). Given the complexity of the rulemaking and need to coordinate with other agencies (ODOT, DEQ, and DOE) the department should anticipate giving rulemaking notice in 2010. Rulemaking work would likely be facilitated by an interagency work group.

Recommended Timeline: Work preparatory for DLCD rule adoption in June 2011 should begin no later than the early Fall of 2010, and would increase over time.

Staff: Bob Cortright, Bob Rindy.

Predicted Workload /Level of Controversy: Medium

4. Metropolitan Planning Organizations (MPO) Greenhouse Gas Reduction Task Force

Description: DLCD, with the Oregon Department of Transportation, will staff the MPO Greenhouse Gas Task Force in order to prepare, by January 2010, Task Force recommendations required by HB 2186. Section 10 of HB 2186 creates a 16-member MPO Greenhouse Gas Task force appointed by the Governor, Speaker of the House and President of the Senate. The chair of LCDC is a designated member of the task force. The Task Force’s charge, applicable to all six MPOs in Oregon, is to study and evaluate development of alternative land use and transportation “scenarios;” evaluate fiscal and other resource needs, evaluate impediments, and recommend legislation for establishing a process and schedule for adoption and implementation of plans with funding estimate. The Environmental Quality Commission is authorized by rule to create standards and requirements to reduce greenhouse gas emission.

Proposal: Task Force, leading to legislative recommendations. DLCD and ODOT will staff the Task Force.

Recommended Timeline: Task Force will be operational July thru December 2009.

Staff: Bob Cortright, Bob Rindy.

Predicted Workload: Medium (but short-term)

5. HB 3286 Metolius Basin Management Plan

Description: HB 3298 designated the Metolius Basin Area as an Area of State Critical Concern, and approved the Management Plan recommended by the Land Conservation and Development Commission (with changes to certain requirements). The Commission is required to adopt the management plan by rule, without change except for the specified amendments.

Proposal: Rulemaking.

Recommended Timeline: Summer/Fall 2009.

Staff: Michael Morrissey.

Predicted Workload: Low

6. Measure 49 Adjustments (HB 3225)

Description: HB 3225 allows some currently-ineligible Measure 37/Measure 49 claimants (approximately 400) to be eligible for claims review. The department is also required to study

two groups of Measure 37 claimants that are not currently eligible for relief under Measure 49: (1) Approximately 900 Measure 37 claimants who are ineligible because their claims were filed only with a county; and (2) Approximately 120 Measure 37/49 claimants who began the Measure 49 supplemental process, but who failed to file required materials within the time required.

Proposal: Temporary rules will be required to implement solicitation and processing of the approximately 400 Measure 37 claims made eligible to proceed under Measure 49 by the legislation. Department staff will work with counties and others to analyze the circumstances whereby approximately 900 claimants filed M37 claims only with a county, but not with the state. Reports to the legislature.

Timeline: December 2009 to *begin* processing the approximately 400 claims. Temporary rulemaking will be initiated immediately. January 1, 2010 to report to the legislature regarding the county-only claimants.

Staff: Carmel Bender, Steve Miller, Michael Morrissey.

Predicted Workload: Low (does not include work processing claims).

7. Revisions to Rules Regarding Allowed Uses on Farmland (HB 3099)

Description: Portions of HB 3099 revised statutory (ORS 215) provisions for certain outright and conditional uses allowed on land zoned EFU, including schools, solid waste facilities, model airplane parks, and other uses. LCDC rules (OAR 660, division 33) that parallel these statutes must be revised to be consistent with these new provisions.

Proposal: “Housekeeping” rulemaking to conform div 33 rules to this legislation.

Timeline: Early 2010.

Staff: Michael Morrissey, Katherine Daniels.

Predicted Workload: Low

8. Adopt Procedural Rules to Implement the “Oregon Transfer of Development Rights Pilot Program” (HB 2228)

Description: HB 2228 authorizes up to three pilot projects for the transfer of development rights from forest lands to certain other lands. Simple procedural rules are needed to select the three pilot projects.

Proposal: Simple rulemaking to establish procedures to implement this legislation.

Timeline: Early 2010.

Staff: Michael Morrissey, Katherine Daniels.

Predicted Workload: Low

9. Update Coastal Program Rules (division 35) Implementing Consistency Requirements of the Federal Coastal Zone Management Act.

Description: Changes to NOAA federal consistency rules and other changes since the last (1988) update of division 35 require that these rules be updated.

Proposal: Rulemaking to conform Oregon rules to federal requirements. Consultation with NOAA staff and coastal communities, including at least an informal advisory committee.

Timeline: 2010.

Staff: Dale Blanton, Jay Charland.

Predicted Workload: Low.

B. Optional Policy/Rulemaking Projects Recommended by the Department

1. Climate Change

Description: Adopt a strategy and work program for to assist the state and local communities in beginning to plan for the effects of climate change. This project was initially identified as work with the state's Global Warming Commission and with ODOT to reduce vehicle-miles-traveled (VMT) and to develop tools for adaptation to climate change. The first part of this work is reflected in HB 2001 and HB 2186 implementation, described above. The remaining portion relates to planning to adapt to the predicted effects of climate change. Specific recommendations relating to adaptation are presented in the staff report for agenda item 16 for the July 29-31 LCDC Meeting.

Proposal, Staff, Predicted Workload: See report under agenda item # 16 for the July 29-31 LCDC Meeting.

2. Public Facility Planning and Finance

Description: Cities and counties (in unincorporated urban areas) continue to struggle with financing public facilities for planned growth inside UGBs. This concern is increasing, and finding solutions that meet both state and local government objective is daunting and likely to require fundamental changes in tax policy. The Big Look Task Force suggested some methods to address this, but focused on these issues too late in its process to develop major proposals for reforms. The commission should establish a work group that focuses on changes to the land use planning system to assure that public facility efficiencies and land use planning are well-integrated, and that the feasibility of financing both capital facilities and operation is properly considered as part of urban growth management.

Proposal: Establish a work group in the Spring of 2010.

Timeline: 2009-2011 biennium and likely beyond.

Staff: Tom Hogue, Gloria Gardner, Bob Rindy.

Predicted Workload: Medium to High.

3. Urban Growth Management

Description: Expand efforts begun in previous biennia to improve, clarify and streamline statewide policy regarding urban growth management, especially regarding the urban reserve rules and the "priority statutes" for urban growth boundary amendments. The department anticipates receipt of a large number of UGB amendments this biennium (possibly as many as 20). Given the importance of UGB decisions to local and state government, and to the private sector, and the high cost of UGB planning by local governments, it is increasingly important that the agency continue its efforts to make the urban growth management more transparent and to improve the efficiency of decision-making at the local and state level. The department recommends that a work group be established with direction to consider UGB management at a high level, including possible recommendations for statutory as well as goal and rule changes.

Proposal: Policy review and study, potential rulemaking and/or a legislative proposal.

Timeline: Begin in late 2009, likely to continue beyond this biennium.

Staff: Bob Rindy, Gloria Gardiner, other staff.
Predicted Workload: High.

4. Transportation Planning Rules (TPR) Review

Description: Three issues regarding the TPR were studied in 2007, and that work should continue: issues involving goal exceptions, Metro Regional Transportation Plans (RTP), and TPR requirements for review of plan amendments and zone changes. HB 3379, adopted by the Legislature, directs ODOT to develop rules that allow extensions of time for local governments to meet funding requirements when improvements to state highways would be needed to meet the TPR. That bill also directs ODOT to do further work on alternative mobility standards. The LCDC Transportation Subcommittee has recently been reactivated.

Proposal: Work with ODOT with regard to implementation of HB 3379, and review whether TPR amendments are needed to properly align transportation and land use objectives.

Timeline: The Oregon Transportation Commission will discuss and set its policy and rulemaking agenda in October. The department expects the LCDC Transportation Subcommittee will work with the OTC in this effort.

Staff: Bob Cortright.

Predicted Workload: Medium.

5. Goal 4 and OAR Division 6 (Forest Lands) Cleanup

Description: There is a need for additional clarity and consistency regarding LCDC's forest lands rules, including: 1) an allowance for biosolids application (to address a LUBA decision), 2) an updated reference to the appropriate Oregon Department of Forestry technical standard relating to forest lands definitions; and 3) clarifications to the template review standards for forest dwellings.

Proposal: A workgroup should be appointed to evaluate these issues and to propose rule or possibly goal amendments on this topic.

Timeline: Last half of 2010.

Staff: Daniels, Morrissey

Predicted Workload: Medium.

C. Projects to be Pursued Based on Resource Availability

1. Goal 10, Housing Policy Review

Description: Affordable housing advocates and other interests have pressed for updating, strengthening, and better enforcing affordable housing other provisions under Goal 10. The commission appointed an Affordable Housing workgroup last biennium to study this. This group did not reach consensus, but did generate a number of ideas to strengthen Goal 10 and related rules regarding the provision of affordable housing. The group did not finish its work on a number of ideas that could be implemented through rulemaking or, in some cases, with special studies.

Proposal: Appoint an Affordable Housing Workgroup to follow up on ideas generated by the 2008 workgroup on that topic, excluding legislative ideas that were not successful in the 2009

legislative session. These ideas included rulemaking (mandatory) ideas, DLCD program assistance ideas, and future legislative ideas. Examples of rulemaking ideas by the previous workgroup (not necessarily endorsed by the department) included, for example, new requirements allowing duplexes or triplexes as of right in SF zones, prohibiting single-family dwellings in areas designated for multi-family, one-stop processing for certain “affordable” housing types, or mandating density bonuses for affordable housing. Non-regulatory ideas included the designation of technical assistance teams from DLCD and OHCS to help local governments make their codes more affordable housing–friendly, and “audits” of existing codes to ensure cities employ clear and objective approval standards and provide sufficient land for all housing types. Legislative ideas included proposing a reverse burden of proof for affordable housing projects on appeal, or other ideas to shorten the appeal process for proposals.

Timeline: Would start in early 2010 if elect to undertake this.

Staff: Bob Rindy, Gloria Gardiner.

Predicted Workload: Medium.

2. Non Resource Lands Policy

Description: Currently no formal statewide rules or other standards exist to guide local governments in planning and zoning “non-resource land” – land outside of UGBs and unincorporated communities that do not qualify as farm or forest land under Goal 3 or 4. Several counties have adopted non-resource lands. The definition of and criteria for forest lands in rule may need further review. A process for reanalyzing resource lands at the county level and standards for possible designation of non-resource lands are currently being considered in HB 2229, resulting from Big Look Task Force recommendations

Proposal: Rulemaking should be considered when triggered by a county application to reconsider resource lands zoning under the HB 2229 process. Rulemaking will need to address the carrying capacity analysis required under HB 2229.

Timeline: Likely wait to gauge county interest in utilizing 2229.

Staff: Morrissey, Daniels.

Predicted Workload: High to medium.

3. Population Forecasts

Description: Although LCDC has provided rules and safe harbors, many counties continue to struggle with providing coordinated forecasts for UGB amendments and other land use planning purposes. Additional tools to ensure timely coordinated forecasts may be necessary. It is not clear that there are rule solutions to this issue, but the problem is a significant one since UGB’s cannot be amended without coordinated forecasts. There may be some methods to improve compliance by rule, but much of this is regulated by statute. As such, a legislative concept may be considered.

Proposal: Policy-neutral audit of existing requirements for population forecasts, and consider simplified statutes and rules to ease county workloads, and to avoid bottlenecks for cities.

Timeline: Would need begin at least nine months prior to next legislative session.

Staff: Bob Rindy, Gloria Gardiner, Tom Hogue

Predicted Workload: Medium.

4. State Agency Coordination Program Update

Description: The state agency coordination (SAC) program assures that state agency actions are compatible with local comprehensive plans and land use regulations. The agency last updated the SAC rules and state agency agreements in 1990. LUBA decisions since then have created issues with Land Use Compatibility Statements (LUCS) used by agencies to ensure conformance of state agency decisions and local plans, and the commission's rules are outdated in relation to agency regulatory programs. HB 2230, the agency's bill on this topic, authorizes but does not require this update.

Proposal: Study, then possible rulemaking. Several state agencies have little institutional memory and limited organizational capacity to understand what is required of them. Preliminary discussion and study are likely necessary before rulemaking. This work could be broken into smaller increments, and carried out over a longer period.

Timeline: 2010.

Staff: Bob Rindy, Dale Blanton.

Predicted Workload: Medium to Low.

5. Division 33 Amendment to Clarify How Profitability Is Considered in Determining Whether Land Must be Zoned for Exclusive Farm Use

Description: A Court of Appeals decision invalidates the commission's current rule prohibiting consideration of profitability in a county's consideration of an application to rezone agricultural land to non-resource land. Under rules existing prior to the court decision, criteria relating to agricultural lands related primarily to soil types. A particular farmer's ability to derive a particular level of income from a parcel or tract was not a permitted criterion for county decision-making in a rezone request.

Proposal: Rulemaking

Timeline: Unclear as to time.

Staff: Michael Morrissey, Katherine Daniels,

Predicted Workload: Medium.

6. Destination Resorts

Description: As requested by the commission in April 2008, the department drafted legislation to provide more flexibility in statute to allow the commission to set standards for siting destination resorts through amendments to Goal 8, or by rules interpreting that goal. HB 2227 passed the House; an amended version passed the Senate. However the reconciled version did not pass the House (by a very narrow margin). There was substantial feedback during the session that we need more objective analysis of our experience with destination resorts, what the benefits and costs are in different settings, and whether there are business models that the state should encourage or discourage, or that are not currently allowed that should be. To address this feedback, the department is considering working with all resort interests to try and define a scope of work for a neutral, objective analysis of resorts, along with resources for an appropriate entity to do that work.

Proposal: Work group and study.

Timeline: Unclear at this time.

Staff: Michael Morrissey, Katherine Daniels.

Predicted Workload: Medium.

7. “Farm Stands Work Group”

Description: Following changes to farm stand rules several years ago, there has been a noticeable increase in this type of development, and some conflicts appear to be arising with other agricultural uses. 2009 legislation was submitted but did not pass. Many parties feel that the best way to revisit these issues is through rulemaking.

Proposal: Re-convene farmstand workgroup.

Timeline: 2nd half of the biennium.

Staff: Michael Morrissey, Katherine Daniels.

Predicted Workload: Low to Medium.

D. Projects Considered but not Recommended This Biennium

1. School Siting and UGB Amendments

Description: Pressures to expand urban growth boundaries to include large tracts of undeveloped land for new schools are occurring as school districts seek new sites outside UGBs, where land prices are lower due to farm and forest land protections in Goals 3 and 4. Because the outlying sites chosen for schools are often too far away for students to walk or bike to school, schools must provide huge parking lots and bus staging areas – hence still larger sites, and rely on state funds for bussing students to these locations. Often the “footprint” of school parking lots exceeds that of the school. Since the state pays most student transportation costs, school districts have little incentive to consider the long-term impact of siting decisions on transportation budgets. In addition to driving up student transportation costs, school siting decisions exert major impacts on local traffic, farmland, older neighborhoods, sprawl-type development patterns, and greenhouse gas emissions. LCDC could consider rule changes to require generally smaller school sites and require school districts to conduct transportation impacts analyses as part of the planning for school siting.

2. Update of Goal 5 Natural Resources, Rules, Especially Regarding Riparian Areas

Description: Division 23 rules implementing Goal 5 were adopted in 1995, concerning about 15 categories of natural or cultural resources. Some of these provisions may be out-of date with respect to current recommended standards, especially rules regarding riparian resources. Application of the Goal 5 rules has occurred most often in urban settings. The 1995 rules are primarily “triggered” by periodic review (and certain plan amendments), and counties and many cities are no longer required to initiate periodic review. As such, many local governments will not implement these rules, and few are expected to conduct the resource inventories that are an essential first step toward implementing the rules. Recommendations for better resource land inventories, such as those required by Goal 5, were part of the Big Look recommendation. HB 2229 requires better rural natural resource inventories and protection for those counties that choose to rezone rural lands. The efficacy of certain provisions currently in Goal 5 and the related rules is reduced due to Measure 49.

3. Local Plans and Land Use Requirements Triggered By Periodic Review

Description: Certain LCDC rules (divisions 8, 12, 13 and 23) and some statutory provisions, including airport planning requirements, are only “triggered” by periodic review. Since periodic review has been narrowed to exclude counties and cities under 10,000, these pre-existing rules and statutes apply to few local governments. In addition, many counties and smaller cities have out-of-date comprehensive plans that are in excess of 25 years old. Resolving this by providing new triggers (such as date-certain requirements) is controversial and may have fiscal implications due to the “unfunded mandates” restrictions in the constitution. The commission could direct the department to study this issue further to determine whether there are non-regulatory methods to achieve the purposes of these requirements.

4. Land Use Appeal Fees

Description: Ongoing concern has been registered about some counties’ local appeal fees. A DLCD legislative concept was drafted but was not forwarded by the department in 2008. LCDC can’t address this issue without statutory changes. Further study of the extent of the issue may be desirable.

5. Regional Problem Solving

Description: HB 2229 has clarified the requirements for regional problem solving. The bill authorizes rulemaking, but the department does not believe rulemaking is required at this time, and does not recommend commencing rulemaking until other RPS projects are begun.

6. Urban Area Expansion in Columbia Gorge

Description: The Columbia River Gorge Commission is considering rules to define what “minor” expansions of urban areas are allowed under the federal Scenic Area Act. The cities of Hood River and The Dalles are considering UGB expansions, and the Gorge Commission rules may mean those cities may have few options except to expand onto high quality farm or forest land that lies outside the National Scenic Area. The department wants to work with the Gorge Commission and the cities to address how to handle growth in these communities. This project is likely to be carried over several biennia, and will involve work with the City of the Dalles through the periodic review process in this biennium.

7. Goal 9 Economic Development Rulemaking Phase II

Description: Earlier Policy Agendas have recommended a “Goal 9 Phase II” rulemaking effort to clarify the relationship among Metro and Metro jurisdictions regarding Goal 9 planning inventories, need estimates, and Metro “concept plans.” In addition, DLCD staff and others have recommended further study of methods to encourage regional Economic Opportunity Analyses for large industrial sites, prevention of the conversion of industrial land to other uses, rules for retail use on land for other employment uses, and EOA guidebook updates. Provisions for regional economic opportunity analyses were considered but not recommended by the work group as part of the Goal 14 Phase II rulemaking in 2008.

8. Areas of Critical State Concern

Description: LCDC recommended to the 2009 legislature a Metolius Basin Area of Critical Concern and Management Plan. Legislative approval was obtained via HB 3298. While the legislation was controversial, various parties have suggested that the commission establish criteria and a more defined process for consideration of ACSC proposals in the future. The commission could take up that activity or as a preliminary step, could review a process for how it would entertain subsequent requests for ACSC adoption.

9. Audit of Statutes, Goals and Rules as recommended under HB 2229

Description: This is authorized by HB 2229 (Big Look) and was identified in the 07-09 LCDC policy Agenda. The objective would be a comprehensive review and recommendations for streamlining of the statewide land use program. It has been suggested that this task be broken into several parts. One part that has been identified as a candidate is ORS chapter 215 and related statewide land use planning goals and rules (primarily Goal 3 and OAR 660-033). Staff considered recommending that LCDC approach this important issue in steps as a multi-year project, as follows: Step 1) (year 1) - appoint a workgroup to detail needed changes to ORS 215 and division 33; Step 2) (year 2) - undertake a policy-neutral reorganization of same; and Step 3) (year 3) - recommend legislative statutory changes as needed.

10. Energy Facilities, Alternative Energy Facilities and Utility Facilities in Rural and/or Resource Zoned Areas

Description: The siting of power lines, pipelines and transmission corridors is increasingly a subject of concern, especially due to greatly increased wind energy generation. HB 3153 passed the legislature, but has only a modest effect, by requiring utility providers to make a reasonable effort to locate facilities in EFU zones to have minimal impact on farming. Controversies around these issues may continue to grow. With regard to alternative energy facilities, the Commission did rulemaking in December 2008 to create new review standards for wind generating facilities on EFU lands. Additional associated issues, including impacts on Goal 5 resources, were not addressed. If this is pursued as rulemaking, a workgroup would be necessary to discuss new rule standards for wind generating facilities, both (1) on forest land, and (2) to address Goal 5 issues on farm and forest lands.

11. Dune Grading (Goal 18)

Description: Dune grading is generally not allowed, except for two circumstances. One of those circumstances relates to possible environmental protection activity. There is very little guidance from DLCD as to how this should take place. This issue has been recognized for several years but has not been addressed.

12. Bridges and Goal 15 (Willamette River Greenway)

Description: Goal 15 is unclear as to whether bridges, bridge support structures, or onramps are allowed in the Willamette Greenway without a Goal 15 exception, (e.g., as provided in Goal 16).

The exceptions process is not the best tool to deal with these structures. Goal 15 amendments could be considered to resolve this, or perhaps interpretive rules could resolve the issue.

13. Goal 11 Exception Process for Longer Term Health Hazards

Description: Some “housekeeping” clean up of Goal 11 rural sewer system rules may necessary to address concerns generated by Deschutes and Jackson counties applying these rules. Proposed legislation (HB 2750) to override Goal 11 restrictions on sewer systems outside UGBs did not pass. The department is in discussions with DEQ regarding this issue.

14. Goal 6 (Water Quality)

Description: Goal 6 requires that local governments plan and approve development in a manner that is protective of land, air and water quality. Nevertheless, across the state, urban development that has occurred since the adoption of Goal 6 contributes to water quality degradation. The Department of Environmental Quality (DEQ) administers several sections of the federal Clean Water Act in Oregon, including the adoption of water quality standards for lakes, rivers, and streams. For each water body that exceeds one or more water quality standard, DEQ determines a “Total Maximum Daily Load” (TMDL) for the watershed, i.e., essentially an amount of a given pollutant that may enter the lake, river or stream while still maintaining beneficial uses. Local jurisdictions that do not adequately develop or implement a plan to meet their TMDL load allocation are in violation of water quality standards and thus, technically not in compliance with Goal 6 (however, plans previously acknowledged as “in compliance” with a goal do not “lose” that compliance except through periodic review or the amendment process). However, LCDC and DLCDC have the opportunity to support water quality improvement throughout the state by supporting the implementation of local pollutant load reduction measures. Possible actions could include: 1) Establishing a “time certain” or alternative method to promote compliance with the 1995 Goal 5 riparian and wetland inventory and protection requirements, for jurisdictions with DEQ TMDL allocations for dissolved oxygen, temperature and sedimentation. 2) Adopting new Goal 6 administrative rule standards for impervious surface reduction and storm water management for jurisdictions with TMDL allocations for dissolved oxygen, temperature, nutrients or sedimentation

15. Segmented Adoption of UGB Amendments

Description: Cities increasingly are adopting preliminary elements of UGB amendments through the post-acknowledgement (PAPA) process rather than all at once, as in the past. In many cases, this means a city will identify a need for housing but will not address the need through UGB amendment or other means, at least in the near term (which may be a violation of clear state housing statutes and Goal 10). However, the Court of Appeals authorized this practice for cities smaller than 25,000 in its *GMK Developments Madras* ruling. The 2008 UGB rulemaking group tried to resolve this issue but could not achieve consensus. Because of the *Madras* ruling, it is likely that amendment of Goal 10 rules would be required in order to reestablish the requirement that, once housing need deficiencies are determined, measures must be taken to address those needs prior to acknowledgement of the housing needs analysis.

16. Conversion of Forest Land to Other Uses

Description: Conversion of commercial forest lands to other uses is a concern to the agency and to the Department of Forestry. More analysis is needed to determine the scope of the problem and possible causes. DLCD and ODF should coordinate efforts to ensure tracking of forest land conversion and to accurately identify trends. DLCD should update and computerize reporting forms to obtain clear and accurate rezoning data from counties.

IV. RECOMMENDATION

The department recommends that the commission consider testimony and the department's recommendations and adopt a policy agenda for the 2009-2011 biennium that includes three categories of projects: 1) Policy and Rule Projects Required by the Governor, Court or Legislature, 2) High Priority Policy and Rulemaking Projects, 3) Projects to be Pursued Based on Resource Availability. The specific projects recommended by the department are those listed in the summary at the beginning of this report, and described in more detail in Part III. The agenda should be revisited and adjusted in the late Spring of 2010, as necessary.

V. ATTACHMENTS

A. 2007-2009 LCDC Policy Agenda Status Report

B. Guidelines for Citizen Involvement in Goal and Policy-Making

C. Public Comments



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Agenda Item 8 - Attachment A
July 29-31, 2009 LCDC Meeting

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LCDC Policy Agenda for 2007-2009



The Land Conservation and Development Commission (LCDC) is required by statute to adopt “statewide land use policies” including statewide goals and administrative rules “necessary to carry out ORS chapters 195, 196 and 197,” (Oregon’s statewide land use planning program). LCDC approves its biennial “policy agenda” – a list of planned policy and rulemaking initiatives – at the beginning of each biennium. In August and October 2007 LCDC considered a list of suggestions to amend, update, streamline and improve state land use policies and rules, and approved a 2007-09 Policy Agenda. LCDC received a progress report and adopted amendments to its Policy Agenda at its meeting in March 2008. The amended Policy and Rulemaking Agenda for the 2007-2009 biennium is as follows. (*NOTE: the status of each project is provided in italics*)

1. Adopt Metro Urban and Rural Reserves rules required by SB 1011 (2007). (*This project was completed in January 2008.*)
2. With the UGB advisory workgroup appointed in 2004, pursue “Phase 2” of the ongoing rulemaking project to clarify and streamline the UGB amendment process. This phase will consider additional “safe harbors” for UGB expansion rules (OAR 660, div. 24). In addition, this rulemaking will consider rules addressing UGB expansions for purposes of adding future school sites. *This project was completed in January, 2009, but did not reach a conclusion regarding school siting rules.*
3. Combine several legislatively mandated rule (and Goal) amendments and other minor and technical rule amendments into a “Housekeeping rulemaking project,” including the following: (*This rulemaking was completed in March, 2008, except with regard to rules for newly incorporated cities; after review, the department recommended that no rule amendments were needed on that topic*)
 - Amend agricultural lands rules (OAR 660, div 33) as required by HB 2210 (2007) to allow on-farm processing of farm crops into biofuel. Also amend these rules to respond to Supreme Court decision in *Wetherall v Douglas County*, 342 Or 666 (2007);
 - Amend forest lands rules (OAR 660, div 6) as per HB 2992 (2007) to allow land divisions less than the minimum lot size if one of the parcels is sold to a provider of public parks or open space;
 - Amend Goal 8 destination resort standards, required by SB 1044 (2007), to clarify the ratio of “units for residential sale to units of overnight lodging” in “Eastern Oregon” destination resorts;
 - Repeal Metro Subregional rules under OAR 660, division 26, in response to Court of Appeals decision invalidating these rules;
 - Amend the current “Post-acknowledgement Plan Amendment Rules” under division 18 to update, clarify, and to conform the rules to statutes enacted or amended since adoption of these rules. Also amend these rules to respond to *Medford Neighbors v Medford* (LUBA 2006-132);
 - Amend division 11, Goal 11 rural sewer and water rules, and related division 4 exception rules, to address a 2006 interpretation by LUBA (*Todd v Florence*; LUBA 2006-068) as to whether goal exceptions are allowed for extension of sewer systems;
 - Examine and report back to LCDC regarding the need to update and clarify OAR 660, division 3, rules for acknowledgement of comprehensive plans for newly incorporated cities.
4. In response to HB 2096 (2007) work with key interest groups to explore ways to encourage local governments to provide sites “dedicated to affordable housing and manufactured dwelling parks,”

including new or amended LCDC rules for this purpose as a “pilot project” applicable to a few cities. *(LCDC appointed a work group in March, 2008; the workgroup concluded its deliberation in January of 2009. While the group’s recommended legislation on sites dedicated to affordable housing was proposed (HB 2225), the legislation did not pass).* Also, prepare a report to the 2009 legislature as required by HB 2096 regarding the provision of sites for affordable housing development and manufactured dwelling parks in the state *(Information was provided as part of the department’s presentation of HB 2226 to the House Committee).*

5. Energy Facilities in Rural Areas: Amend rules as necessary to streamline land use criteria for siting of wind and solar energy facilities on resource lands, in coordination with the Oregon Department of Energy. Review the acreage limitations in the current rules and determine if different sizes or criteria should be considered in the evaluation of wind and solar power generation facilities. This review should also determine whether any statutory changes are needed as well. *(This project was completed and new rules adopted in December, 2008).*
6. Adopt the current Measure 49 “temporary rules” as “permanent rules” prior to the expiration of the temporary rules in June 2008. In addition, the department may propose additional rules or rule amendments to help interpret Measure 49 *(This rulemaking was completed May 2008).*
7. Continue work with the Joint Oregon Transportation Commission’s Subcommittee and LCDC’s Transportation Subcommittee to assess implementation of the TPR amendments and consider related issues, including:
 - Possible LCDC review of the Metro Regional Transportation Plan (RTP);
 - Implementation of portions of the TPR that apply to plan amendments and zone changes; and
 - Review status of projects involving goal exceptions.*(Meetings with Joint Oregon Transportation Commission and LCDC’s Transportation subcommittee continued after LCDC’s initial adoption of the policy agenda, but the subcommittee has been inactive for the past year. Implementation of portions of the TPR that apply to plan amendments and zone changes still need attention.)*
8. Continue ongoing discussions with agencies, the Governor’s Office, and other stakeholders regarding:
 - Guidance to state and federal agencies and private entities with respect to the Territorial Sea Plan and
 - Goal 19 guidance on new uses such as wave energy generation facilities or ocean aquaculture.

(LCDC approved a rules advisory committee for this project, and the department’s coastal staff is working with a subcommittee of the Ocean Policy Advisory Council on initial policy elements of the plan. NOAA has given approval for Coastal federal funds to support work to map nearshore fisheries.)

9. Work with the Governor’s office in its inter-agency effort to develop strategic state policies for the long-term management of aggregate resources in Oregon in order to effectively respond to changing resource protection requirements, address public and stakeholder interests, and to ensure a stable long-term supply of affordable aggregate for roads, buildings, and other infrastructure. *(In May 2007, the Governor’s staff issued an aggregate policy briefing memo developed by state agencies. The department worked with the Governor’s Aggregate/Agriculture consensus workgroup until it disbanded in 2008, and worked with other agencies in updating the governor’s staff regarding a proposed long term statewide strategy for aggregate. While this topic received legislative attention, no further action has been recommended).*

10. Revise agency procedures, as necessary, to implement new Environmental Justice requirements in SB 420 (2007). Plan a joint meeting with the bill sponsors, the new Environmental Justice Task Force, and the Commission's Citizen Involvement Advisory Committee. The bill requirements include:
 - Consider the effects of agency actions on environmental justice issues;
 - Engage in public outreach activities in communities affected by agency decisions;
 - Hold hearings at times and in locations convenient for people in communities affected by agency decisions; and
 - Create a "citizen advocate" position responsible for encouraging public participation and to ensure the agency considers environmental justice issues.

(Status: DLCD created a "citizen advocate" position responsible for encouraging public participation, for ensuring that the agency considers environmental justice issues, and to inform the agency of the effect of its decisions on communities traditionally under-represented in public processes. The department has appointed Cliff Voliva to this position. Carmel Bender Charland is the department's representative to the Environmental Justice Task Force, which meets quarterly.)

11. Schedule an informational LCDC hearing from the Department of Aviation (ODA) on airport planning issues. *(Note: this hearing was completed in March 2008, and the Department was instructed to assist ODA in its 2009 legislative concept regarding airport planning. ODA's legislative concept did not pass, and as such, no further action is contemplated with regard to revising the airport planning rules).*

For questions or additional information about LCDC's 2007-09 Policy Agenda, contact Bob Rindy at 503-373-0050, Ext 229, or email at: bob.rindy@state.or.us

LAND CONSERVATION AND DEVELOPMENT COMMISSION CITIZEN INVOLVEMENT GUIDELINES FOR POLICY DEVELOPMENT

Approved by LCDC on April 23, 2004

I. Purpose

The purpose of these guidelines is to provide and promote clear procedures for public involvement in the development of Commission policy on land use. The Commission values the involvement of the public and interested parties in all phases of planning, including development of Commission policy. These guidelines are intended to provide the Commission and the Department with practical guidance on public involvement during policy development, consistent with and in some cases beyond the legal requirements of the Attorney General's Model Rules of Procedure, state law, and the Commission's administrative rules.

The Commission and the Department shall follow these guidelines to the extent practicable in the development of new or amended statewide planning goals and related administrative rules, and in other significant policy development activities related to the statewide land use program.

II. Public Involvement Objectives in Development of Commission Policy

- To provide meaningful, timely, and accessible information to citizens and interested parties about policy development processes and activities of the Commission and the Department.
- To promote effective communication and working relationships among the Commission, the Department, citizens and interested parties in statewide planning issues.
- To facilitate submittal of testimony and comments to the Commission from citizens and interested parties and the response from the Commission to citizens and interested parties about issues of concern with regard to policy proposals.

III. Public Participation and Outreach Methods

A. Citizen Involvement Guidelines

In order to guide the Commission and the Department in planning for and conducting procedures and activities that will result in a significant new or amended statewide land use policy, such as a new or amended statewide planning goal or an administrative rule, the Commission and the Department shall adhere to the following guidelines to the extent practicable:

1. Consult with the CIAC on the scope of the proposed process or procedure to be followed in the development of any new or amended goal, rule or policy;
2. Prepare a schedule of policy development activities that clearly indicates opportunities for citizen involvement and comment, including tentative dates of meetings, public hearings and other time-related information;
3. Post the schedule, and any subsequent meeting or notice announcements of public participation opportunities on the Department's website, and provide copies via paper mail upon request;

4. Send notice of the website posting via an e-mail list of interested or potentially affected parties and media outlets statewide, and via paper mail upon request; and
 5. Provide background information on the policy issues under discussion via posting on the Department's website and, upon request, via paper mail. Such information may, as appropriate, include staff reports, an issue summary, statutory references, administrative rules, case law, or articles of interest relevant to the policy issue.
 6. Develop a database of names of citizens interested in participating in LCDC land use policy development on general or on specific issues. The department shall maintain this database. In addition, information should be provided on the department's website to notify the public of opportunities to serve on advisory committees or workgroups."
- B. In establishing committees, workgroups, and processes for the development of new or amended goals, rules or policies, the Commission and the Department shall consider the complexity of the issues, diversity of interests among interested parties, availability of expertise, potential effects of resolution of the issue on local communities, tribes, citizens and interested parties, and the degree of expressed citizen interest. Depending on these considerations with respect to a particular policy issue, the Commission may:
1. Appoint an advisory committee that includes citizens, local officials, tribal representatives, experts, and other affected or interested parties in order to provide advice and assistance to the Commission on a particular policy issue, prepare options or alternatives and perform other tasks as appropriate. Information about meetings and actions of the advisory committee shall be made available in a variety of media, including the Department's website. The Commission shall indicate whether an advisory committee may make recommendations to the Commission through testimony of individual members, or make recommendations as a single body, including minority opinions.
 2. Authorize the Department to establish an advisory committee that includes affected parties, technical experts and other knowledgeable individuals in order to provide advice and assistance to the Director and the Department on a particular policy issue, prepare options or alternatives, and provide advice and information on the political, practical, technical, and scientific aspects of a potential new or amended policy. Such advisory committees to the Department are referred to as "workgroups" and their meetings shall be open to the public. While these meetings are not necessarily subject to the requirements of the Open Meetings Law, the Department shall strive to comply with the provisions of that law with respect to notice and other requirements. The Department shall report to the Commission when it appoints a workgroup in order to provide an opportunity for the Commission to consider and, if necessary, amend the group;
 3. Choose to not establish an advisory committee or workgroup, provided LCDC and the Department shall explain its reasons for not doing so, either in the public notice advertising the start of a goal, rule, or other policy making project or by means of Commission minutes.

- C. The Commission, when establishing an advisory committee, or the Department, when establishing a workgroup, shall:
1. Clearly define the task or role of the committee or group, including the authority of an advisory committee to provide the Commission with recommendations independent from the Department staff;
 2. Assure that Department staff provides adequate support, within the limitations noted below;
 3. Require minutes of committee meetings to be prepared and drafts of proposed goals or rules be distributed prior to subsequent committee or workgroup meetings, when timelines permit, and within the limitations noted below;
 4. Assure the involvement of local government staff or elected officials and affected tribes, where warranted, with notice to local elected officials that employ local staff appointed to a committee or workgroup; and
 5. Consider geographic representation in appointing committees or workgroups.
 6. Provide information to members of advisory committees and workgroups, and an opportunity for discussion, to ensure that there is a common understanding about (a) how recommendations will be developed; (b) opportunities to present minority opinions and individual opinions; (c) the time commitment necessary to attend workgroup meetings and related activities and to read background materials; (d) opportunities to discuss background and technical information with department staff; and (e) any potential liability or exposure to litigation as a result of serving on a committee or workgroup.
 7. In evaluating the particular interests to be represented on particular advisory committees or workgroups, the commission should consider appointment of a workgroup member not affiliated with any of the groups affected by or otherwise interested in the matter at hand. This member would be charged with determining and representing the very broad interests of citizens in general, rather than the interests of any particular person or group that may otherwise advocate for or against a policy proposal.
- D. The Commission shall encourage flexibility and innovative methods of engaging the public in its policy activities and shall seek the assistance and advice of citizens affected by or with an interest in the proposed policy issue. To this end the Commission may convene short - term technical panels or focus groups (real or virtual), hold conferences, conduct on-line surveys, and carry out other means of gathering information. Where a goal, rule or significant policy process primarily affects a certain region, and where advisory committee or workgroup meetings are confined to that region, notice and opportunities to comment shall also be made available to citizens and interested parties in other regions of the state. Where appropriate, the Commission shall consider collaborative rulemaking under ORS 183.502.
- E. The Commission is cognizant that the level of public involvement and outreach described in these guidelines will be difficult or impossible without adequate staff support from the Department, and that the scope of efforts to promote and facilitate public participation and outreach will be limited based on the adequacy of staff and funding resources.

- F. None of the activities described herein are intended to conflict with or replace any of the public notice or comment opportunities provided under state law or administrative rules.
- G. The Commission may waive or modify these guidelines, as necessary and reasonable, including emergency circumstances or when a rulemaking issue is not significant. When the commission chooses to waive or modify these guidelines, it shall explain its reasons for doing so.

IV. Communication with Citizens

A. Understandable Information

The Commission and the Department shall provide to citizens information that is essential to understanding the policy issues at hand and shall endeavor to make this information easily understood and readily accessible. The Commission and the Department shall identify Department staff or other experts who shall be available to answer questions and provide information to interested citizens.

B. Notice of Decisions

The Commission and the Department shall provide notice of decisions to citizens who have requested information and/or participated in the development of policy. This notice shall be by e-mail except paper mail when specifically requested. Notice shall direct citizens to the Department's website where the decision, background information, staff reports, rationale for the decision, and other information will be available.

C. Costs

Paper copies of items may be mailed upon request subject to fees that may be established by the Department to recover costs (the Commission has established copy fees under OAR 660-040-0005).

D. Appeal Information

Information on appeals procedures shall be available on the Department's website and shall be referenced, when appropriate, in notices to citizens, above.

E. Electronic Communication

While the Commission and the Department recognize that not all citizens presently have or desire direct home access to electronic communications or the agency website on the Internet, the Commission also recognizes the numerous advantages of electronic communication. The Commission is committed to using this medium as a primary means of communication and distribution of information of interest to citizens and shall encourage the Department to employ web-based communication technologies to provide a broad range of information to citizens and to facilitate communication between the Commission and citizens.

V. Applicability

These guidelines are effective April 26, 2004, and supercede the previously adopted Citizen Involvement Program adopted October 7, 1977 and Public Involvement Policy adopted May 4, 2001. The Department is directed to consult with CIAC with regard to new and ongoing projects, including advisory committees and workgroups appointed for those projects, at the earliest scheduled CIAC meetings. However, in the event the meeting schedule of those committees will not allow timely consultation on policy projects intended to begin in accordance with the schedule adopted by LCDC, the Department is directed to proceed with those projects and to consult with CIAC at the earliest opportunity.

From: Nick Lelack [mailto:Nick_Lelack@co.deschutes.or.us]
Sent: Wednesday, July 15, 2009 3:40 PM
To: Michael Morrissey; Bob Rindy
Subject: LCDC Priorities

Michael & Bob:

Please find below the Deschutes County staff's recommendations for the LCDC's policy agenda priorities. Please know our recommendations are in addition to Director Richard Whitman's list of priorities, which include M49 claims, periodic review, UGB amendments, regional issues (Portland urban/rural reserves, etc.), and other regular work load items (e.g., plan amendments).

Top Priorities (not in any order)

1. Review of ORS Chapter 215 and Rural Lands
2. Goal 11 Exception Process for Lands that are "Almost but not Quite" a Health Hazard
3. State Agency Coordination (SAC), Coordination & Update
4. Land Use Appeal Fees (however, our issue is NOT that the fees are too high, but rather the LUBA appeal fee is far too low given the legal and staff resources required to assemble a LUBA record).

Not a Priority

1. Urban Reserves and the Hierarchy of Lands Added to UGBs. We do not believe this issue should be studied at this time. This issue should be studied in the future after more URAs have been proposed and/or established. In Central Oregon, we have had two positive experiences in Redmond and Madras where the URA processes worked very well. We do not currently believe the use of URAs should be further restricted.

Please contact me if you have any questions.

Thank you.

Nick Lelack, AICP

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From: Dave Hunnicutt [mailto:dave@oia.org]
Sent: Thursday, July 09, 2009 9:06 AM
To: 'WHITMAN Richard'; 'Michael Morrissey'
Subject: Goal 4

Richard/Michael:

Thanks for inviting me to the meeting Tuesday. To recap, I hope that the Commission will consider putting together a Goal 4 workgroup. I know there are a lot of priorities, but taking another look at the language in Goal 4 is important for rural residents and the timber industry.

Dave Hunnicutt