



Oregon

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TO: Land Conservation and Development Commission

FROM: Cora Parker, Deputy Director

SUBJECT: **Agenda Item 3, October 15-17, 2008 LCDC Commission Meeting**

Policy and Process for Director's Performance Evaluations

I. AGENDA ITEM SUMMARY

At the August 6-7, 2008, meeting in Baker City, the Commission discussed the department's recommendation to adopt an updated version of the director's evaluation policy and process that was put in place in January 2003, and to make refinements to the Director's Action Plan for Implementation and Results ("Director's Plan") section of that policy and process at its October 2008 meeting. The commission directed staff to modify the recommended policy and process and return with those modifications for consideration at the October 2008 meeting. The Commission also asked Director Whitman to prepare a draft "Director's Plan" for consideration and approval at the October 2008 meeting. The materials provided here respond to the Commission's direction. They include:

- A document showing changes, in legislative format, to the August 2008 version of the evaluation policy and process (Attachment A)
- A clean copy of the revised evaluation policy and process with all changes fully incorporated (Attachment B)

A copy of the draft "Director's Plan" will be available for review and discussion at the October meeting.

II. ADDITIONAL BACKGROUND INFORMATION

As a reminder, following direction from the 2005 meeting of the Legislative Assembly, a number of state boards and commissions were required to adopt a "best practices" performance measure. The measure requires the boards and commissions to conduct annual self-assessments against 15 "Best Practices Criteria" laid out by the Department of Administrative Services (DAS).

The first two criteria are:

- Executive Director's performance expectations are current.
- Executive Director's performance has been evaluated in the last year.

The policy and process being presented to the Commission will set the stage for it to meet the first criteria noted above. Because of delayed adoption of expectations criteria, the commission may not want to evaluate Director Whitman in January 2009 (the first anniversary of his appointment to the position). Completion of the review by June 30, 2009, however, would allow the commission to meet the second best practices performance criteria, (Executive Director's performance has been evaluated in the last year), in time for the 2008-09 reporting of these measures.

Detailed background information is available as Agenda Item 11 from the August 6 & 7, 2008, meeting of LCDC. For additional information about this current agenda item please contact Cora Parker at (503) 373-0050, ext. 223 or by e-mail cora.r.parker@state.or.us.

III. DEPARTMENT RECOMMENDATION

The department recommends that the Commission adopt the revised version of the director evaluation policy and process presented herein. The department recommends acceptance of the "Director's Plan," with any changes as directed, and further recommends that the commission identify a target date, ideally no later than June 30, 2009, to evaluate Director Whitman's performance.

ITEM 3, ATTACHMENT A

LCDC PERFORMANCE EVALUATION OF THE DLCD DIRECTOR POLICY AND PROCESS - REVISIONS

NOTE: This policy replaces the director evaluation policy adopted by LCDC in January 2003.

A. LCDC shall evaluate the performance of the DLCD director annually.

B. Immediately prior to the evaluation, LCDC shall:

1. Appoint a subcommittee **consisting of LCDC members**, which shall be responsible for preparing and managing the evaluation process.

2. Adopt criteria, or revise existing criteria, for the evaluation and develop any evaluation forms to be used [~~after allowing public comment~~].

3. Provide any additional direction to the subcommittee, such as whether to invite people other than LCDC members to participate in the evaluation.

4. Allow public comment on the criteria and process at a commission meeting.

C. **All LCDC members shall participate in the evaluation. If the commission or the subcommittee chooses to include evaluators in addition to LCDC members,** the subcommittee shall prepare a list of people to be [~~asked~~] **invited** to complete the evaluation, after consulting with the director and with DLCD staff. [~~In addition to all members of the commission, the~~] Invited evaluators may include representatives of DLCD staff[;] and stakeholders, including selected members of the Citizen Involvement Advisory Committee **and** the Local Officials Advisory Committee, local government planners, [~~and~~] **people from** other state or federal agencies, **and others**. The subcommittee may choose to interview invited evaluators or [~~to~~] ask invited evaluators to complete an official **written** evaluation form [~~based on~~], **in either case using** the evaluation criteria developed in item B.2. above.

D. All invited evaluators, **not including commission members,** will be promised **to the extent allowed by Oregon law** that their evaluation forms shall be kept confidential, including their names and their comments on the evaluation forms, as provided by the commission's adopted confidentiality policy.

E. The subcommittee shall develop a schedule for the evaluation process and present that schedule in a [~~public~~] **commission** meeting **for public comment.**

F. The [~~commission or~~] subcommittee may [~~choose to~~] conduct the evaluation [~~themselves~~] **itself** or may choose to engage the services of an unaffiliated third party as a neutral evaluator **to gather the evaluation responses and to summarize them for presentation to the commission.**

G. In the event that the commission **or subcommittee** chooses to engage a neutral evaluator, that person shall not be a commission member **nor** a staff member[;] nor any party having a direct vested

interest in any land use or fiscal decisions made by, or likely to be made by, the commission or the director.

H. The commission shall review the compiled evaluation comments with the director[,-] in executive session, unless the director chooses not to have the review in executive session.

I. The director will be given the opportunity to provide a self-evaluation to the commission **as part of the evaluation process.**

Adopted by LCDC at its _____, 2008, meeting.

**LCDC PERFORMANCE EVALUATION OF THE DLCD DIRECTOR
CONFIDENTIALITY POLICY - REVISIONS**

Also amend the confidentiality policy as follows:

A. It shall be the policy of LCDC that **to the extent allowed by Oregon law** all persons **other than commission members** who participate in an evaluation interview or whocomplete a written evaluation of the performance of the DLCD director shall be promised that their names and their comments shall be kept confidential. ~~[/Prior to any evaluation interview,]~~ Invited evaluators shall be informed of this policy **prior to completing an evaluation form or interview.** This promise shall be displayed prominently on any evaluation form. **Evaluations by commission members shall not be kept confidential but shall be part of the public record.**

B. The commission

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Adopted by LCDC at its _____, 2008, meeting.

ITEM 3, ATTACHMENT B

LCDC PERFORMANCE EVALUATION OF THE DLCD DIRECTOR POLICY AND PROCESS – FINAL

NOTE: This policy replaces the director evaluation policy adopted by LCDC in January 2003.

A. LCDC shall evaluate the performance of the DLCD director annually.

B. Immediately prior to the evaluation, LCDC shall:

1. Appoint a subcommittee consisting of LCDC members, which shall be responsible for preparing and managing the evaluation process.
2. Adopt criteria, or revise existing criteria, for the evaluation and develop any evaluation forms to be used.
3. Provide any additional direction to the subcommittee, such as whether to invite people other than LCDC members to participate in the evaluation.
4. Allow public comment on the criteria and process at a commission meeting.

C. All LCDC members shall participate in the evaluation. If the commission or the subcommittee chooses to include evaluators in addition to LCDC members, the subcommittee shall prepare a list of people to be invited to complete the evaluation, after consulting with the director and with DLCD staff. Invited evaluators may include representatives of DLCD staff and stakeholders, including selected members of the Citizen Involvement Advisory Committee and the Local Officials Advisory Committee, local government planners, people from other state or federal agencies, and others. The subcommittee may choose to interview invited evaluators or ask invited evaluators to complete an official written evaluation form, in either case using the evaluation criteria developed in item B.2. above.

D. All invited evaluators, not including commission members, will be promised to the extent allowed by Oregon law that their evaluation forms shall be kept confidential, including their names and their comments on the evaluation forms, as provided by the commission's adopted confidentiality policy.

E. The subcommittee shall develop a schedule for the evaluation process and present that schedule in a commission meeting for public comment.

F. The subcommittee may conduct the evaluation itself or may choose to engage the services of an unaffiliated third party as a neutral evaluator to gather the evaluation responses and to summarize them for presentation to the commission.

G. In the event that the commission or subcommittee chooses to engage a neutral evaluator, that person shall not be a commission member nor a staff member nor any party having a direct vested interest in any land use or fiscal decisions made by, or likely to be made by, the commission or the director.

H. The commission shall review the compiled evaluation comments with the director in executive session, unless the director chooses not to have the review in executive session.

I. The director will be given the opportunity to provide a self-evaluation to the commission as part of the evaluation process.

Adopted by LCDC at its _____, 2008, meeting.

**LCDC PERFORMANCE EVALUATION OF THE DLCD DIRECTOR
CONFIDENTIALITY POLICY - FINAL**

Note: This policy replaces the confidentiality policy adopted by LCDC in January 2003.

A. It shall be the policy of LCDC that to the extent allowed by Oregon law all persons other than commission members who participate in an evaluation interview or who complete a written evaluation of the performance of the DLCD director shall be promised that their names and their comments shall be kept confidential. Invited evaluators shall be informed of this policy prior to completing an evaluation form or interview. This promise shall be displayed prominently on any evaluation form. Evaluations by commission members shall not be kept confidential but shall be part of the public record.

B. The commission will not accept anonymous comments or evaluations. Every evaluation form must be signed by the evaluator. Evaluators' names and comments on the evaluation forms shall be kept confidential from everyone except an LCDC member designated to process evaluation forms and remove names before review or a neutral third party, if one is chosen by the commission to assist in the evaluation process.

C. The commission may choose to share the comments of the invited evaluators with the director. However, the director shall not have access to the evaluators' names. If the nature of an evaluator's comments would allow the identity of the evaluator to be deduced, the commission will summarize or paraphrase the comments prior to sharing with the director, in order to preserve the evaluator's confidentiality.

D. In the event that the commission chooses to engage a neutral evaluator to assist in the review of evaluation forms, the following process will be used. The invited evaluator shall return evaluation forms directly to the third party. The third party shall remove the names of the evaluators from the forms, unless the evaluator waives the promise of confidentiality. The commission will either ask the third party (1) to forward the evaluation forms with the names removed to the commission, or its designees, or (2) to review, compile and summarize the evaluation comments prior to submittal to the commission.

E. An evaluator may waive the commission's promise of confidentiality by so stating at the time of an interview or by checking a box on the evaluation form. In that case, the evaluator's name and comments may be shared with anyone who asks to see that evaluation form or summary of interview notes. The commission will treat any evaluator who does not waive confidentiality as relying on the commission's

promise of confidentiality in submitting an evaluation. However, an evaluator forfeits his or her right to confidentiality if it can be shown that the evaluator intentionally provided false information.

F. The commission concludes that this promise of confidentiality is necessary in order for the commission to get full, frank, and candid opinions from a broad range of employees and others who work with the director. No one is required by law to complete an evaluation of the DLCDC director. It is in the public interest that the commission evaluates the performance of the director. It is therefore also in the public interest that the commission promise confidentiality to potential evaluators, in order to get the best information upon which to evaluate the director's performance. This is true for both identities and comments on the evaluation form, because the number of DLCDC staff is small, the world of other possible evaluators is also small, and the planning circle in Oregon is small, so that it might be possible to identify an evaluator from the evaluator's comments. As a result of the above, the commission believes that these evaluations are exempt from public disclosure under ORS 192.502.

Adopted by LCDC at its _____, 2008, meeting.