

October 20, 2004

TO: Land Conservation and Development Commission  
Nov. 3-5, 2004, LCDC Meeting

FROM: Lane Shetterly, Director

SUBJECT: **Agenda Item 9, Director's Report**

## **1. INFORMATION UPDATES**

### **A. GRANTS, INTERGOVERNMENTAL AGREEMENTS AND CONTRACTS**

#### **a. General Fund Grants**

Of the approximately \$850,000 in Technical Assistance grants offered, \$372,000 will go to projects directly related to improving planning for economic development. Over \$250,000 will fund projects that support economic development, or where economic development planning is a part of a larger project (usually combined with residential land and housing projects). Other major uses of Technical Assistance grants include streamlining of development codes (over \$90,000) and compliance with federal requirements (primarily National Scenic Area – about \$46,000).

#### **b. Intergovernmental Agreements**

The department pursued an interagency agreement with Portland State University to provide Collaborative Problem Solving Training for all department staff on October 28, 2004. This interagency agreement assisted the agency in meeting its commitment under the Agency Action Plan to “Change the Regulatory Culture” of the agency.

The department is also working on an intergovernmental agreement with Metro's Data Resources Center to provide data, analysis and recommendations on several “safe harbors” for urban growth boundary expansions. For additional information, please contact Bob Rindy at [bob.rindy@state.or.us](mailto:bob.rindy@state.or.us).

### **B. PARTICIPATION IN LUBA APPEALS AND RECENT LUBA AND COURT OPINIONS**

ORS Chapter 197 requires a report to the Land Conservation and Development Commission regarding the department's participation in petitions to the Land Use Board of

Appeals (LUBA) and about those LUBA opinions that involve the application of the statewide goals and rules.

**a. Participation [ORS 197.090(2)]**

Between September 9, 2004 and October 15, 2004, the department received notice of thirty-two (32) appeals that were filed with LUBA. The department did not file any petitions.

**b. LUBA and Court Opinions [ORS 197.040(1)(c)(C)].**

**LUBA Opinions**

Between September 9, 2004 and October 15, 2004, the department received twenty-five (25) LUBA opinions. Of these, LUBA dismissed six (6), affirmed twelve (12), remanded six (6), reversed one (1) and did not transfer any petitions to circuit court. Three (3) decisions involved the application or interpretation of a statewide planning goal or rule provision and these opinions do not require an amendment to a goal or an administrative rule.

Of note is the LUBA decision in *Friends of Jefferson County v. Jefferson County*, in which the Department intervened along with the Oregon Department of Agriculture (ODA) and 100 Friends of Oregon to defend Jefferson County's approval of a livestock feed lot in an EFU zone. LUBA affirmed the County's approval of the feed lot as a "farm use" as defined by ORS 215.203(2)(a) noting "[w]e generally agree with ODA's and DLCDC's reading of the statute."

**Court Opinions**

The department did not receive any opinions from the Oregon Court of Appeals during this time period.

**C. PERIODIC REVIEW WORK TASKS/PROGRAMS**

A summary of recent periodic review activity in the department is provided in Attachment A. Activity since the last Commission update has continued to be slow, both in terms of submittals and approvals. Of note are two recently submitted UGB expansions (Hermiston and Bend), which are reviewed "in the manner of" periodic review, even though they were not part of periodic review work program. A graph of historical activity is also included, in Attachment A.

**2. DEPARTMENT PROGRAM ACTIVITIES AND INITIATIVES**

The Department recently submitted a Floodplain Management 5-Year Work Plan to the Federal Emergency Management Agency (FEMA). The Plan addresses federal fiscal years 2005-2009. DLCDC produced the Plan as a mandatory task per DLCDC's 2004 grant

agreement with FEMA. All states receiving FEMA grant dollars to support state floodplain management programs were required to develop these work plans. The FEMA regions will use the work plans to better gauge the needs of state floodplain programs and the gap between existing state and federal resources for floodplain management and those needs.

The *Floodplain Management 5-Year Work Plan* presents a five-year vision of needs and opportunities for DLCD's floodplain management efforts. The Plan describes projects and activities that DLCD believes would further sound floodplain management in Oregon by supporting local government floodplain programs while also providing technical assistance to citizens and other affected parties. The Plan provides estimates of program costs to implement these projects and activities and compares projected program resources to needed resources. The gap analysis clearly illustrates a disparity between anticipated resources (i.e., funding for the current 1 FTE program) and the resources necessary to expand upon or better deliver important, technical assistance targeted to Oregon communities, citizens, and other affected parties. The gap analysis also shows how challenging it would be for DLCD to take on new, innovative tasks to achieve a more comprehensive floodplain management program without the provision of additional federal resources to support state floodplain efforts.

Overall, we found development of Oregon's Plan to be a very educational and worthwhile process for the Natural Hazards Program. DLCD will be able to consult the Plan when working with FEMA Region X to establish annual grant tasks or when otherwise faced with making decisions about how best to target the Department's floodplain management work. Development of the plan provided an opportunity to think about program needs and costs and to present that information to FEMA. Another purpose of this work plan is to begin establishing performance targets and program goals, in response to FEMA direction, to help in short- and long-term evaluation of the effectiveness of Oregon's floodplain management program.

To learn more about the *Floodplain Management 5-Year Work Plan* or to obtain a copy of the plan, please contact Christine Valentine, Floodplain/Natural Hazards Specialist at 503-373-0050 ext. 250, [christine.valentine@state.or.us](mailto:christine.valentine@state.or.us) or Ann Beier, Planning Services Division Manager, at 503-373-0050 ext. 255, [ann.beier@state.or.us](mailto:ann.beier@state.or.us). We also intend to post the Plan on DLCD's natural hazards website ([www.lcd.state.or.us/hazards/hazards.html](http://www.lcd.state.or.us/hazards/hazards.html)).

### **3. DEPARTMENT ORGANIZATIONAL AND MANAGEMENT INFORMATION**

#### **A. RECRUITMENTS**

The department is currently recruiting for a new fiscal analyst 2/budget officer. Interviews for this position are currently scheduled for November 4, 2004. Anticipated hire date of the department's new budget officer is late November.

Interviews for a new Metro-area regional representative have moved forward. The department is assessing options regarding the vacant Northeast Oregon regional representative position.

The department has conducted interviews for the Transportation and Growth Management Code Assistance planner position. The department hopes to make a decision within the next two weeks. The Planning Services Division will begin its fourth recruitment for the Economic Development Team Leader position within the next two weeks.

At the time of this report, the Community Services Division is in the middle of an in-house recruitment for a new Administrative Specialist to support the general fund grants program.

## **B. DEPARTURES**

Diana Foster, Fiscal Analyst/Budget Officer for the department received a promotion to the Department of Transportation. Foster's last day with the department was October 15, 2004. We wish her well on her new endeavors.

## **C. DIRECTOR ACTIVITIES**

During the period of this report the director has been involved in several activities in support of the work of the department, both within the department and internally. Highlights of the director's activities include:

- Ongoing participation in the Governor's Economic Revitalization Team.
- Participation in the Governor's Agency Advisors Committee.
- Participation in the Natural Resources Cabinet.
- Continuation of monthly lunch open forums for legislators (and their constituents). For the months of September and October, legislative candidates were also invited and attended the forums.
- Ongoing senior staff meetings with the Department of Transportation, to help improve coordination and communication between DLCD and ODOT.
- Attendance at CIAC meeting (Oct. 15).
- 1000 Friends of Oregon Farm Advisory Committee – Hillsboro (Oct. 15).
- Westside Economic Alliance (Beaverton, Oct. 21).
- Attendance at the Annual Oregon Coastal Planners Network Meeting (Oct. 24).
- Meetings, including listening tours with field staff to Eastern Oregon to visit with local officials of Heppner, Burns, Canyon City, John Day, Condon, Fossil, Irrigon, Lexington & Hines (Oct. 7 and 8) with Jon Jinings and Mark Radabaugh.

#### **D. TRAINING**

All DLCD employees received collaborative problem solving training on October 28, 2004. The training focused on “Collaborative Problem Solving” as a skill essential to providing excellent customer service. The Department was very fortunate to be able to get high quality training services for a very reasonable price through a contract with Portland State University.

The customer service training is part of a series of trainings that have been provided to DLCD to “change the regulatory culture.” These trainings fulfill the requirements of the Action Plan (also referred to as a “work plan”), approved by the Joint Ways and Means Committee. The department remains committed to offering further training opportunities for its staff.

#### **4. LEGISLATIVE UPDATES**

##### **A. JOINT INTERIM COMMITTEE ON TRANSPORTATION, TRADE AND ECONOMIC DEVELOPMENT**

The Joint Interim Committee on Transportation, Trade and Economic development did not meet during the period covered by this report.

##### **B. HOUSE INTERIM COMMITTEE ON LAND USE REVIEW**

The House Interim Committee on Land Use Review met on October 1, 2004, and adopted findings and recommendations regarding the land use program that the committee forwarded to the Speaker of the House by memorandum dated October 7, 2004. A copy of the transmittal letter and findings and recommendations from the committee are attached as Attachment B.

##### **C. EMERGENCY BOARD**

The 2003 Legislature approved a budget note for DLCD that required the department to report to the Emergency Board in January and November of 2004 the department’s progress on completion of a work plan. The Legislature also reduced the department’s budget by \$375,000 General Fund and established that amount in a Special Purpose Appropriation to be allocated in two equal amounts of \$187,500 upon demonstration that we have made reasonable progress on the work plan. Each of the two equal amounts affects all three of the department’s budget program units: Operations (all but 0.5 FTE as well as associated services and supplies); Grants; and Landowner Notification (the remaining 0.5 FTE and funds for reimbursing local governments for landowner notification).

In January 2004, DLCD was prepared to submit to the Emergency Board its report responding to the budget notes. However, this item was removed from the January Emergency Board agenda and rescheduled to the April E-Board agenda. At its meeting on

April 8-9, 2004, the Emergency Board found that DLCD had made reasonable progress and approved the Grants and Landowner Notification components of the first allocation of the Special Purpose Appropriation. Rather than approve the Operations component, the Emergency Board noted that DLCD had achieved significant vacancy savings and directed the department to use these savings.

DLCD has now submitted its second report to the November Emergency Board and plans to request additional funds from the Special Purpose Appropriation to fulfill its biennial General Fund responsibilities under the Operations, Grants and Landowner Notification programs.

#### **D. CITIZENS INVOLVEMENT ADVISORY COMMITTEE**

The Citizen Involvement Advisory Committee (CIAC) report is included as Attachment C.

### **5. WORK GROUP UPDATES**

#### **A. ECONOMIC DEVELOPMENT ADVISORY COMMITTEE**

EDPAC will be meeting for the third time on October 21st. This report was written prior to that meeting. An oral report of outcomes and decisions from the October EDPAC meeting will be available to the Commission by staff if needed. EDPAC has been awaiting work product from other committees and groups that relate to priority items chosen by EDPAC at their June meeting. For the land supply priority, EDPAC will receive and update on the UGB workgroup and recent Economic Revitalization Team actions. For the development certainty priority, EDPAC will receive an update on the Advisory Committee on Regulatory Permitting. For the service delivery priority, EDPAC will receive an update on recent Economic Revitalization Team actions. For the Goal 9 priority, EDPAC will receive an update of the Goal 9 guidebook project, the outcomes of the August Goal 9 subcommittee meeting, and recent staff analysis of Goal 9 implementation issues. As noted in an earlier report to LCDC, a major implementation issue is a lack of emphasis and outreach by the state on the need and value to conduct adequate Goal 9 planning.

The focus and desired outcomes of the October 21 EDPAC meeting is to discuss and for the department to receive recommendations regarding Goal 9 rule amendments and other recommendations for action in preparation for the next legislative session. The department plans to promote Goal 9 and conduct outreach through a series of meetings around the state once the Goal 9 guidebook is completed around the first of the year. It has been suggested that some areas of the Goal 9 rule should be clarified or updated prior to initiating this outreach effort. Other, more systemic changes to Goal 9 or the rule can be made after the legislative session or as part of the 30-year review. Subjects within the Goal 9 rule that will be considered and discussed by EDPAC for adoption prior to initiating Goal 9 planning outreach activities include:

- Encourage regional coordination for EOA's and inventories
- Incorporating site certification program as safe-harbor for short-term supply
- Update definitions such as "prime" industrial

- Reference Goal 9 Guidebook as safe harbor for EOA
- Clarify guidance and designating lands in excess of demand projections
- Clarify guidance on industrial conversions

## **B. ECONOMIC REVITALIZATION TEAM**

On October 19, the Economic Revitalization Team (ERT) directed regional ERT teams to adopt three of the Industrial Lands Task Force recommendations as team functions. The task force recommendations adopted by the ERT framework include:

- Forming “Employment Lands Teams” as sub-teams to the regional ERTs to solve industrial lands issues. Employment Lands Team can include other state agencies, local governments, and experts from the private sector.
- Verifying local industrial lands inventories. This will be the primary function of the employment lands teams and will be conducted in critical market areas.
- Forming Permitting Teams to assist with job creation projects. Permitting teams will not be limited to streamlining activities but will also include expediting other state resources. Permitting teams will incorporate the pre-application meeting function identified by the Advisory Committee on Regulatory Permitting.

## **C. GOAL 9 GUIDEBOOK**

The department formed a guidebook workgroup that has met once. The workgroup identified key issues that must be addressed in the guidebook that were not addressed in the December 2002 Sufficiency report by the Advisory Committee on Commercial and Industrial Development. The workgroup also chose an overall layout and format for the guidebook. Cogan Owens Cogan will produce a draft of the guidebook in early November. The workgroup will review the draft for functionality and effectiveness. The draft guidebook will also be sent to all interested parties as well as be available on the department’s website for public comment. A final guidebook is expected by the end of the year. Once completed department staff and the guidebook contractor will conduct a series of meetings around Oregon to promote the guidebook as resource as well as promote the need and value of conducting adequate Goal 9 planning.

## **D. PERIODIC REVIEW REFORM COMMITTEE**

This committee has continued to meet monthly. The group has begun serious discussion regarding how to organize the content of the required report to the legislature and the content of needed reforms to the process. The report will be presented to the Commission at the December meeting.

## **ATTACHMENTS**

- A.** Periodic Review Work Task History
- B.** House Interim Committee on Land Use Review letter and recommendations
- C.** CIAC Report for Astoria meeting

- End -