

Nov. 29, 2004

TO: Land Conservation and Development Commission
Dec. 8-10, 2004, LCDC Meeting

FROM: Lane Shetterly, Director

SUBJECT: **Agenda Item 16, Director's Report**

1. INFORMATION UPDATES

A. GRANTS, INTERGOVERNMENTAL AGREEMENTS AND CONTRACTS

a. General Fund Grants

The Emergency Board in November approved the department's special purpose appropriation request, which included \$43,377 for general fund grants. It is getting fairly late in the biennium to start any new large projects. The Grants Advisory Committee in April 2004 recommended that the special purpose appropriation be used to supplement the funds dedicated to dispute resolution, but to date none of the existing dispute resolution funds have been used.

The department has awarded \$190,000 of the \$200,000 in grants provided by House Bill 2011. The following summarizes some of the major grant awards:

Bend - A \$74,000 grant was provided to the City of Bend to prepare a master plan for approximately 500 acres of industrial land (Juniper Ridge) that has recently been brought into the City's urban growth boundary (UGB). The planning effort has been coordinated with the Governor's Economic Revitalization Team (GERT) and will increase opportunities for business development and expansion. Expected products include a master plan that responds to market needs in terms of allowed uses and parcel sizes; public facility plans for water, sewer, and transportation facilities; and comprehensive plan amendments and zoning ordinances to implement the plan. The City has conducted stakeholder meetings, prepared a market analysis and estimated public facility needs, and has presented several master plan alternatives to the public at open house meetings.

Newport - The department provided a \$30,000 grant to the City of Newport for the preparation of a local economic development strategy including an updated buildable lands inventory and employment land needs analysis. This project also includes a land use plan/overlay for the South Beach area of Newport as well as public facilities plan update.

Malheur County - DLCD provided a \$12,5000 grant to Malheur County to determine the quantity and quality of available, rail accessible industrial land along the Malheur County rail corridor. The project will include a Goal 9 economic opportunities analysis, review existing local industrial development policies and, if appropriate, develop new policies and designate lands for industrial uses.

The department also provided a \$10,000 grant to Malheur County to assist with the land use appeals process for a business development project. Malheur County and the State of Oregon have been actively recruiting the Treasure Valley Renewable Resources Company to construct a \$66,000,000 bio-refinery plant and create approximately 60 family wage jobs.

Greater Metropolitan Employment Lands Study (GMELS) – The department provided support to GMELS through a \$5,000 grant to Metro. This multi-phase project includes an assessment of the current regional economic environment, a definitional framework for employment lands and policy recommendations. Recommendations from this study have been incorporated into the department’s report on the conversion of industrial land and in on-going work on the Goal 9 administrative rule.

Harney County – The department awarded \$4,000 to Harney County to assist in conducting an industrial lands inventory in Burns and Hines. The results of this inventory will help the county in identifying sties suitable for inclusion in Oregon’s industrial site certification program.

Phoenix – The department awarded \$15,000 to the City of Phoenix to help the city plan an urban renewal district. Urban renewal has been evaluated as a potential funding mechanism for the planned improvements and projects associated with the City Center Plan.

Redmond – The department awarded the City of Redmond \$39,500 to provide funding for an industrial site master planning project that will bring an “opportunity” site to project-ready status. It will include a public facilities plan.

b. Intergovernmental Agreements

The Department has entered into an intergovernmental agreement (IGA) for \$20,000 with Metro’s Data Resource Center to support the Goal 14 workgroup’s identification of “safe harbors” for some of the assumptions that are used in justifying Urban Growth Boundary (UGB) expansions. The IGA supports the department’s efforts to streamline the process for amending UGBs as directed by the Commission. One of the key principles guiding this effort is to establish procedures and requirements for amending UGBs that are clear and uncomplicated. “Safe harbors” provide one method for establishing clear requirements.

The purpose of this project is to provide the Goal 14 workgroup with objective information regarding safe harbor provisions that are legally defensible. Metro’s

research will support safe harbors for metropolitan areas, mid-size cities, and small and rural cities in the State of Oregon. The safe harbors assumptions may include a variable range for each safe harbor assumption depending on size of the region or locality.

Metro will provide information to support the following:

- Housing Needs Analysis Assumptions
- Public Facilities Assumptions
- Employment Density Assumptions
- Buildable Lands Assumptions

For additional information about this project, please contact Ann Beier at 503-373-0050 ext. 255, or by email at ann.beier@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 October 18, 2004 and November 23, 2004, the department received notice of twenty (21) 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 October 18, 2004 and November 23, 2004, the department received sixteen (16) LUBA opinions. Of these, LUBA dismissed five (5), affirmed four (4), remanded seven (7), reversed none (0) 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.

Court Opinions

The department received three opinions from the Oregon Court of Appeals during this time period none of which the statewide planning goals or rules.

C. PERIODIC REVIEW WORK TASKS/PROGRAMS

A detailed report of periodic review status is provided under Agenda Item 10.

D. STATUS OF PLAN AMENDMENTS RECEIVED

A quarterly summary of post-acknowledgment plan amendments (PAPAs) received by the department is set forth in Attachment A. The first page of Attachment A summarizes submittals for the first three quarters of 2004. A submittal may include multiple amendments. The reported adoptions include submittals that may have been submitted in a prior or the current quarter.

The second page shows activity over the last several years by quarter and annually. The third and fourth pages display DLCD participation for the last 5 ³/₄ years. "Y=Participated" and "YA=Advisory Participation" on the last page mean that the proposal was reviewed by department staff, not that the department necessarily submitted comments. Those that received comments are shown under the three middle columns, categorized by the medium of the response.

Taken together, the three types of participation yield the following results (comments/no comments):

1999 – 115/419
2000 – 137/339
2001 – 184/322
2002 – 82/338
2003 – 149/209
2004 – 91/179 (first three quarters)

2. DEPARTMENT PROGRAM ACTIVITIES AND INITIATIVES

A. MINERAL AND AGGREGATE PROGRAM UPDATE

The aggregate/farmland consensus group continues to meet. The next meetings are scheduled for December 1st and 13th. No consensus recommendations have come out of the group as yet. The collection of data, critical to the group's decision making, has taken more time than originally thought. The Consensus Group's process streamlining subcommittee has also met.

Mark Darienzo, the department's mineral and aggregate planner, will conduct training and the revised aggregate rule. Training is scheduled for Roseburg (12/20), Portland (12/21), Salem (12/14), Bend (12/13) and eastern Oregon (12/6,7, and/or 8). The main target audience is ODOT and local government planners. DLCD field representatives have also been invited.

B. BICYCLE COMMUTE CHALLENGE

During the month of September, department staff in the Salem and Portland offices competed successfully in the annual Oregon Bike Commute Challenge sponsored by the Bicycle Transportation Alliance (BTA). Participating in the category of “public agencies with 25 to 100 employees”, the DLCD team placed 1st among agencies in Salem and was 7th statewide. Here are the numbers:

- 118 commute trips, totaling 573 miles were made by bike
- 14% of our commute trips during September were made by bike
- 22% of DLCD Salem and Portland staff participated in the challenge.

In addition to being fun, the Bike Commute Challenge is an effective way to make businesses and employees aware of benefits of bicycle commuting. Now in its fourth year, the challenge attracted almost 5000 participants from about 500 businesses and agencies across the state.

C. PARTICIPATION IN LEAGUE OF CITIES AND ASSOCIATION OF COUNTIES ANNUAL MEETINGS

The Transportation Growth Management (TGM) program had a display at both the League of Cities’ and Association of Counties’ annual meetings. Constance Beaumont, TGM outreach coordinator staffed the display and provided information about the TGM program and department activities to conference attendees.

Lane Shetterly also spoke to both the League of Oregon Cities and the Association of Oregon Counties at their respective annual meetings. In both cases he was on a panel of speakers addressing the impact of Ballot Measure 37.

D. BALLOT MEASURE 37 IMPLEMENTATION

Shortly after the passage of Ballot Measure 37 the department convened a team of staff members to evaluate the measure and its potential impact on the department and the statewide planning program. The team meets daily and has developed a process for evaluating claims submitted to the department. The team will continue to meet as the measure is implemented to review the measure, claims filed with the department, and assess and adjust the department's response. The department, in consultation with the Department of Justice and Governor’s office, may propose rules to codify the department's claims process, including the delegation of authority to act on claims, and any matters of interpretation or application of the measure that might best be addressed by rulemaking. The department will review, to the extent it is able within its staffing and resource limitations, the implementation of the measure at the local level, from the adoption of local ordinances to actions on claims for compensation or waiver filed with local governments.

The department has added information on Measure 37 to the department’s website, and will update the information to keep it current.

The director sent a letter to local government leaders across the state, informing them of the department's actions with respect to the implementation of the measure, including the collection of information from the department's records that will assist local governments in evaluating claims. A copy of the director's letter is attached as Attachment B.

The department has been working and will continue to work closely with the Governor's office, the Department of Justice, the Department of Administrative Services, other affected state agencies, the legislature and local governments on issues relating to the implementation, interpretation and possible amendment of the measure.

3. DEPARTMENT ORGANIZATIONAL AND MANAGEMENT INFORMATION

A. RECRUITMENTS

Jim Shelton has been selected as Fiscal Analyst 2 for the Operations Services Division. Jim has extensive state budget experience including budget development and budget execution functions such as Personnel Inventory Control System (PICS) and Oregon Budget Information Tracking System (ORBITS) preparation and input, essential and policy package preparation, budget document preparation, forecasting and tracking expenditures, and quarter allotment execution.

Larry French has received a promotion within the Community Services Division. Larry has been the post-acknowledgment plan amendment specialist for almost seven years, and he added periodic review specialist duties in 2003. Larry recently accepted an offer to become the grants administrative specialist, assisting with the general fund grant program. He will keep the periodic review responsibilities, at least for a while.

In a related development, Mara Ulloa, formerly the department's receptionist, has accepted the post-acknowledgment plan amendment specialist position, replacing Larry French. This is a lateral reassignment for Mara.

The final domino has the department finalizing a recruitment for the open receptionist position in the Operations Services Division. The anticipated hire date is in the near future.

The department is still in the process of recruiting for the Transportation Growth Management Program's Code Assistance Position. The department has conducted initial interviews, made an offer and is waiting for a decision from the top candidate. The department has also completed recruitment for the Economic Development Team Leader position. The department is reviewing applications and hopes to schedule interviews for that position for mid-December.

B. DEPARTURES

Pam Pearson, the Economic Development Team's Support Specialist, has accepted a full time position with the Department of Human Services. Pam is returning to the program she worked with before she joined DLCD in April. Her last day with the department will be

December 10. Pam has been an invaluable member of the economic development team and we will miss her capable and efficient manner and her wonderful sense of humor. We wish Pam all the best in 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). All of the current legislative members and members-elect will be invited to the December 13th forum to discuss the implications of Measure 37.
- Ongoing senior staff meetings with the Department of Transportation, to help improve coordination and communication between DLCD and ODOT.
- Oregon Business Association (Portland, Nov. 3)
- League of Oregon Cities (Portland, Nov. 4)
- Independent Realtors Association (Portland, Nov. 9).
- Polk County Farm Bureau (Eola, Nov. 13)
- Association of Oregon Counties (Portland, Nov. 18).
- Measure 37 Workshop Speaker for the Environmental Law Education Center (Dec. 1).

In addition, the Governor has appointed the director to coordinate the state response to Ballot Measure 37. In that capacity, the director has met with the Governor and his staff, representatives of the Department of Justice, Department of Administrative Services, other affected agencies, and other individuals and representatives of organizations having an interest in the measure. The director has also met on several occasions with representatives of cities and counties to coordinate the state and local implementation of the measure.

D. TRAINING

The department is evaluating affirmative action training opportunities to meet Affirmative Action Reporting requirements.

Ann Beier, the Planning Services Division manager attended training for sponsored by the Lincoln Institute of Land Policy senior state planning officials from western states. The Institute provides and funds this training for senior staff on an annual basis. The intent is to train a core group of senior managers and provide a forum where they can exchange information. Ms. Beier's report of the event follows:

"This year's training was held in Fort Collins, Colorado. We had a session different state approaches to the management of state school trust lands (many of the western states have a larger percentage of state-owned lands than Oregon does). We received a briefing on "Grading the Rockies: A Report Card" from a professor from Colorado College. The "report card" evaluated quality of life indicators for cities and counties in the Rocky Mountain west and contrasted those measures to nationwide indicators of livability. The indicators, unlike the Oregon Benchmarks, are based on readily available data. Colorado College will continue this evaluation but will choose different indicators for their next report. The other two sessions involved a discussion of water supply and land use issues and a discussion of budgets and tax policy. California and Arizona are facing the greatest pressures from new development on water supply and local governments are beginning to adopt ordinances to require a demonstration that water is available to support new development.

"We spent one afternoon touring Fort Collins and surrounding jurisdictions to see the results of their Natural Areas Program and Open Lands Program. Under their program, Fort Collins had conserved 11,472 acres of natural area and open space by the end of 2003. The City has a ¼ cent sales tax dedicated to purchasing and maintaining and restoring natural areas. Larimer County has a ¼ cent sales tax to fund open space and natural areas. The City tax was recently extended through 2030 and the County tax extended through 2018. The approach used by Larimer County and Fort Collins is particularly interesting in relationship to Ballot Measure 37. For example, the County is maintaining open space buffers between cities and farmland protection by purchase of development rights and conservation easements. They work with willing property owners and have identified agricultural producers who are interested in farming and have purchased development rights. In other situations, they have purchased property outright or conditioned land use approvals to cluster development in a manner that maximizes open space. In other situations, the City has combined regulatory approaches (e.g., stream setbacks) with density incentives."

4. LEGISLATIVE UPDATES

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

Department staff will participate in the Committee's December 1st informational meeting. Staff will provide a briefing on the joint Land Conservation and Development Commission and Oregon Transportation Commission subcommittee's effort to update the Transportation Planning rule. Economic development staff will provide an overview of the report on the conversion of industrial lands to non-industrial uses.

B. HOUSE INTERIM COMMITTEE ON LAND USE REVIEW

The House Interim Committee on Land Use Review did not meet during the period covered by this report.

C. EMERGENCY BOARD

The Emergency Board approved the department's request for \$54,000 from the special purpose appropriation for the Operations program and authorized the Department of Administrative Services to unscheduled up to \$26,000 General Fund for potential vacancy savings; \$43,377 from the special purpose appropriation for the Grants program (representing the balance of funds withheld for the Grants program); and \$6317 from the special purpose appropriation for the Landowner Notification Program (representing the balance of funds withheld for the Landowner Notification Program). The amount allocated for Operations is less than the full amount withheld under the special purpose appropriation for Operations, but is consistent with the department's revised request. Emergency Board also received the department's progress report on its 2003-05 work plan, which showed that the work plan is 88% complete (at approximately two-thirds through the biennium).

The General Government Subcommittee of the Emergency Board was very complimentary toward the department in its comments on the progress of the work plan, the department's progress toward budget and management accountability and the reduced amount of the request for Operations.

5. WORK GROUP UPDATES

A. PERIODIC REVIEW REFORM COMMITTEE

This committee is continuing to work on a recommendation to the legislature on the efficiency and effectiveness of periodic review and potential reforms to the process. The November meeting was productive but a considerable amount of time was devoted to whether Ballot Measure 37 has an effect on the committee's activities. The committee decided to proceed. The last director's report indicated the committee report would be on the Commission's December agenda, but it is not ready.

ATTACHMENTS

- A. Post-acknowledgement plan amendment summary