



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office Fax: (503) 378-5518

Third Floor Fax: (503) 378-5318

<http://www.oregon.gov/LCD>

April 9, 2009



TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director

SUBJECT: Agenda Item 1, April 17, 2009, LCDC Meeting

COMMISSION BUSINESS AND REPORTS

The Budget and Management Subcommittee will report to the commission. The commission will also discuss possible appointments to the Transportation Subcommittee, the Budget and Management Subcommittee, the Director's Performance Evaluation Subcommittee and the Local Officials Advisory Committee.

I. TRANSPORTATION SUBCOMMITTEE

The commission appointed a Transportation Subcommittee with three members at its April 2004 meeting. The subcommittee met with their counterparts from the Transportation Commission and recommended amendments to the Transportation Planning Rule. The subcommittee has also made recommendations to the full commission on other issues related to transportation planning implementation.

A variety of issues related to transportation planning are anticipated in coming months, particularly related to tensions between rapidly growing areas at the constraints on funding state highway improvements. As a result, the department requests that the commission reconstitute the subcommittee. Two members of the original subcommittee are still on the commission – Commissioners Worrix and Jenkins. The department recommends that the subcommittee contain two or three members.

II. BUDGET AND MANAGEMENT SUBCOMMITTEE

The Budget and Management Subcommittee reviews financial information and agency head transactions of the department. The subcommittee holds a public meeting at a time scheduled in association with each regular LCDC meeting and subsequently reports actions and recommendations from that meeting to LCDC at the associated regular meeting.

At the BAM Subcommittee meetings, the members:

- Review reports from the agency business manager, including regular and annual report approvals of agency head transactions.

- Make recommendations to the agency on budget and management issues.

III. DIRECTOR'S PERFORMANCE EVALUATION SUBCOMMITTEE

LCDC evaluates the performance of the DLCD director on an annual basis. At its meeting in October of 2008, the commission determined that an evaluation of the current director, Richard Whitman, should be conducted by June 30, 2009. The Director's Performance Evaluation Subcommittee is responsible for preparing and managing the evaluation process. Attachment A describes the policy and process for the performance evaluation.

IV. LOCAL OFFICIALS ADVISORY COMMITTEE

The Local Officials Advisory Committee (LOAC) has been inactive for several years. The director identified reactivating the LOAC as a priority in his 2008-09 work plan. The LOAC is a statutory committee to LCDC, that is intended to provide city and county perspectives on major policy issues facing the department.

**LCDC PERFORMANCE EVALUATION OF THE DLCD DIRECTOR
POLICY AND PROCESS
ADOPTED OCTOBER 16, 2008**

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 October 15-17, 2008, meeting in Prineville.

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

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 awritten 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 DLCD 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 DLCD 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 October 15-17, 2008, meeting in Prineville.