


State of Oregon
Department of Environmental Quality

Memorandum

Date: Oct. 25, 2017

To: Environmental Quality Commission

From: Richard Whitman, Director 

Subject: Agenda item M, Action item: Recommendations for public engagement at commission meetings
Nov. 2-3, 2017, EQC meeting

Why this is important Commissioners have expressed interest in evaluating the commission's meeting processes and protocol to foster increased engagement with Oregonians. DEQ staff, at the direction of the commission, researched public comment formats and mechanisms used by other state boards and commissions.

Background The Environmental Quality Commission's past practice has been to not take public comment on agenda items that come before it. The Commission does, however, set aside a time-specific public comment period at each regular meeting, known as public forum. During that time, a person may present comment on any matter, with few limits related to content.

This practice has led to frustration both on the part of commissioners and the public. By not allowing public comment on agenda items at the time they are heard by the commission, we are limiting the ability of the public to engage the commission. In some matters (contested cases, where only parties are allowed to participate, and rulemakings, where the record is usually closed prior to the commission meeting) there are legal reasons for not allowing public engagement. But on informational items and many action items (such as DEQ's budget), there is no legal reason for not allowing public comment.

Commission options for public comment The commission may modify its processes, meeting structure and protocol at any time, provided that the changes do not violate public meeting law, commission rules, or Oregon Administrative Procedures Act requirements.

EQC may:

1. Keep its current process, allowing comment during a public forum at a set time
2. Modify its process, allowing topic-specific comment after each scheduled item, with an additional public forum scheduled for topics not on the meeting agenda

3. Allow public comment only on specified agenda items, as identified by the chair in advance (as the agenda is developed in consultation with the department), and drop or shorten the public forum
4. Adopt other practices, so long as they are within the confines of legal requirements

**Practices of
Other Boards
and
Commissions**

The Board of Forestry and Land Conservation and Development Commission use an item-specific public comment structure, with additional time for unscheduled items, as described in option two, above. These bodies have regulatory authorities similar to EQC's role and responsibilities. Recent agendas for the Board of Forestry and Land Conservation and Development Commission are attached to this report for reference.

The Oregon Transportation Commission, the Oregon Fish and Wildlife Commission, and the Oregon Water Resources Commission all have a set comment time (similar to public forum), and also allow item-specific comments, as time allows (typically limited to three minutes per person).

- OTC site: http://www.oregon.gov/ODOT/Get-Involved/Pages/OTC_Main.aspx
- ODFW: <http://www.dfw.state.or.us/agency/commission/procedures.asp>
- OWRD: http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/Default.aspx?notice_id=22

**DEQ
recommendation**

DEQ recommends that the Oregon Environmental Quality Commission modify the structure of EQC meeting agendas to allow topic-specific public comment after each item (except for contested cases, rulemakings, executive session items, and other items identified by the commission chair), with an additional period of 30 minutes for subjects not on the agenda, and that this practice begin with the January 2018 EQC regular meeting.

DEQ also recommends that the commission direct DEQ staff to consult with the Oregon Department of Justice regarding the modifications and notice of the meetings to ensure all public meeting laws and administrative requirements are met.

Attachments

- A. Board of Forestry agenda
- B. Land Conservation and Development Commission agenda

Report prepared by Stephanie Caldera
Commission assistant

Oregon Board of Forestry – Public Meeting
Oregon Department of Forestry -
2600 State Street, Salem OR, 97310
Tuesday, July 25, 2017

Prior meetings' audio and this meeting's written material available on the web www.oregonforestry.gov. The matters under the Consent Agenda will be considered in one block. Any board member may request removal of any item from the consent agenda. Items removed for separate discussion will be considered after approval of the consent agenda. Public comment will not be taken on consent agenda items.

Consent Agenda

- | | | | |
|-------------|----|--|--------------------------------|
| 9:00 – 9:01 | A. | <u>June 7, 2017 Meeting Minutes</u> | State Forester Peter Daugherty |
| 9:00 – 9:01 | B. | <u>2017 Board Governance Performance Self-Evaluation</u> | Satish Upadhyay |
| 9:00 – 9:01 | C. | <u>CFF Appointment for New Member</u> | Kyle Abraham |
| 9:00 – 9:01 | D. | <u>Request for a Hearing to Expand Lone Pine RPA Boundary</u> | Robert Young |

Action and Information

- | | | | |
|---------------|----|--|---|
| 9:01 – 9:30 | 1. | <u>State Forester and Board Member Comments</u>
A. <u>Public Comments</u> [topics not on agenda – see over] | Sign in at entrance |
| 9:30 – 10:00 | 2. | <u>Committee for Family Forestland Annual Report</u> | Dr. Ed Weber, Kyle Abraham
<i>Presentation on activities of the Committee for Family Forestlands (CFF), discuss progress on key issues, and make recommendations on policy topics affecting family forestland owners.</i> |
| 10:00 – 10:15 | | Morning Break | |
| 10:15 – 10:45 | 3. | <u>Progress Report and Update of Board Work Plans, July 2017-April 2018</u> | Chad Davis
<i>This item will provide a progress report and update regarding the Board Work Plans for each Division in the agency and will forecast work from July 2017 through April 2018.</i> |
| 10:45 – 11:30 | 4. | <u>*Proposed Final Order Review – John West</u> | Josh Barnard, Greg Wagenblast
<i>The purpose of this agenda item is to consider the hearing record for contested orders of the state forester involving forest practices violations by John West</i> |
| 11:30 – 12:00 | 5. | <u>*Specified Resource Sites Rulemaking for Bald Eagles</u> | Jennifer Weikel, Josh Barnard
<i>In March 2017, the Board of Forestry approved draft rule language for Bald Eagles including modified rules for nest sites under OAR 629-665-0100 Species Using Sensitive Bird Nesting, Roosting and Watering Sites. The Department will present a summary of public comments, final rule language, and ask Board for approval of final rule language.</i> |
| 12:00 – 1:00 | | Lunch | |
| 1:00 – 1:15 | 6. | <u>Annual Topic: 2017 Fire Season Update</u> | Ron Graham, Doug Grafe
<i>Provide an update to the Board on the 2017 fire season.</i> |
| 1:15 – 2:45 | 7. | <u>Forest Practices Act (FPA) Rule Policy Review</u> | Terry Frueh, Lena Tucker
<i>An update of the process to scope streamside protection monitoring questions for Eastern Oregon and Siskiyou geographic regions, including: 1) a summary of analyses thus far, preliminary results, and a timeline for future work; and, 2) a draft decision framework to help organize information for future decisions.</i> |
| 2:45 – 3:00 | 8. | <u>Forest Trust Lands Advisory Committee Testimony</u> | Tim Josi
<i>The FTLAC is a statutorily established committee that advises the BOF on State Forests policy.</i> |
| 3:00 – 3:15 | | Afternoon Break | |
| 3:15 – 4:15 | 9. | <u>Executive Session</u> | Chair Imeson
<i>The Board will meet in executive session for the purpose of conferring with legal counsel regarding the Board's rights and duties related to current litigation likely to be filed pursuant to ORS 192.660(2)(h).</i> |

Times listed on the agenda are approximate. At the discretion of the chair, the time and order of agenda items—including addition of an afternoon break—may change to maintain meeting flow. The board will hear public testimony [*excluding marked items] and engage in discussion before proceeding to the next item.* A single asterisk preceding the item number marks a work session. Public testimony/comment will not be accepted.

BOARD WORK PLANS: Board of Forestry Work Plans result from the board's identification of priority issues. Each item represents commitment of time by the Board of Forestry and Department of Forestry staff that needs to be fully understood and appropriately planned. Board Work Plans form the basis for establishing Board of Forestry meeting agendas. Latest versions of these plans can be found on the board's website at: www.oregonforestry.gov

PUBLIC TESTIMONY: The Board of Forestry places great value on information received from the public. The board accepts both oral and written comments on agenda items except Work Session items [see explanation below]. Those wishing to testify or present information to the board are encouraged to:

- Provide written summaries of lengthy, detailed information;
- Recognize that substance, not length, determines the value of testimony or written information;
- Endorse rather than repeat the testimony of others;
- Sign-in at the information table located near the entrance.

Written comments for public testimony provide a valuable reference and may be submitted before or during the meeting for consideration by the board. Please bring 10 copies for distribution. Written comments received before or during the meeting will be distributed to the board. Oral or written comments may be summarized and attached to the minutes.

The board cannot accept testimony on a topic for which a public hearing has been held and the comment period has closed. If you wish to provide comments to the board, you must sign-in on the sheet provided at the Information Table, located near the meeting room's entrance. (Note: All persons attending a board meeting are requested to sign in, whether or not they intend to provide comment.)

Three minutes will be allotted for each individual. Those wishing additional time for testimony should contact the Board Support office at 503-945-7210 at least three days prior to the meeting. The maximum amount of time for all public comments under this agenda item will be thirty minutes.

WORK SESSIONS: Certain agenda topics may be marked with an asterisk indicating a "Work Session" item. Work Sessions provide the board opportunity to receive information and/or make decisions after considering previous public comment and staff recommendations. No new public comment will be taken. However, the board may choose to ask questions of the audience to clarify issues raised.

- During consideration of contested civil penalty cases, the board will entertain oral argument only if board members have questions relating to the information presented.
- Relating to the adoption of Oregon Administrative Rules: Under Oregon's Administrative Procedures Act, the board can only consider those comments received by the established deadline as listed on the Notice of Rulemaking form. Additional input can only be accepted if the comment period is formally extended (ORS 183.335).

GENERAL INFORMATION: For regularly scheduled meetings, the board's agenda is posted on the web at: www.oregonforestry.gov two weeks prior to the meeting date. During that time, circumstances may dictate a revision to the agenda, either in the sequence of items to be addressed, or in the time of day the item is to be presented. The board will make every attempt to follow its published schedule, and requests your indulgence when that is not possible.

Audio files of the board's meetings are posted within one week after the meeting at: www.oregonforestry.gov

In order to provide the broadest range of services, lead-time is needed to make the necessary arrangements. If special materials, services, or assistance is required, such as a sign language interpreter, assistive listening device, or large print material, please contact our Public Affairs Office at least three working days prior to the meeting via telephone 503-945-7200 or fax 503-945-7212.

Use of all tobacco products in state-owned buildings and on adjacent grounds is prohibited.



Meeting Notice and Agenda Land Conservation and Development Commission



Meeting:
Thursday, September 21, 2017
9:00 a.m.
La Grande
Eastern Oregon University
[David E Gilbert Center](#)
One University Blvd
La Grande, OR 97850

Meeting:
Friday, September 22, 2017
9:00 a.m.
La Grande
Eastern Oregon University
[David E Gilbert Center](#)
One University Blvd
La Grande, OR 97850

Thursday, September 21, 2017, 9:00 a.m.

UPDATED AGENDA

Please note the following agenda updates:

Agenda Item 4, IMMI Summary, has been moved to the Friday schedule.

Agenda item 11, Commission Business, has been moved to Thursday and is updated to reflect additional topics.

The proposed 2018 meeting dates and location and the election of a new commission chair and vice chair.

Agenda Item 14, Agency briefing for Jackson County solar appeal has been added to the Friday agenda.

Agenda Item, 15 Appeal of Clackamas County PAPA has been added to the agenda.

Staff Contact: [Amie Abbott](#), Executive Assistant to the Director & Commission
amie.abbott@state.or.us, (503) 934-0045

Item 1 [Approve Agenda](#)

Item 2 [Public Comment](#)

This part of the agenda is for comments on topics not scheduled elsewhere on the agenda. The chair may set time limits (usually three minutes) for individual speakers. The maximum time for all public comments under this agenda item will be limited to 30 minutes. If you bring written summaries or other materials to the meeting please provide the commission assistant with 20 copies prior to your testimony. The commission is unable to take action, at this meeting, on items brought to their attention in this forum.

Item M 000005

Item 11 Commission Business

The commission will receive a Budget and Management subcommittee report.

The commission will determine the future chair and vice chair.

The department will present the proposed 2018 meeting dates and location for the commission's consideration.

Staff Contact: **Teddy Leland; Amie Abbott**, Administrative Services Division Manager; Executive Assistant to the Director & Commission

teddy.leland@state.or.us; amie.abbott@state.or.us, (503) 934-0016; (503) 934-0045

Public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item 3 2017-2019 Policy Agenda

Department staff will present a revised Policy Agenda for the 2017-2019 biennium, reflecting public comment, commission input, and rulemaking required by the 2017 Legislature. The Policy Agenda directs department work and reflects the guidance provided by the DLCD Strategic Plan and the commission.

Staff Contact: **Ellen Miller; Sadie Carney**, Legislative Coordinator/Urban Policy Analyst; Rural Policy Analyst/Communications Manager

ellen.l.miller@state.or.us; sadie.carney@state.or.us, (503) 934-0020; (503) 934-0036

Public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item 5 Eastern Regional Solutions Team Briefing

Members of the Northeast Oregon Regional Solutions Team will provide LCDC with a briefing on recent and ongoing work in the region.

Staff Contact: **Scott Edelman**, Central Oregon Regional Representative
scott.edelman@state.or.us, (541) 318-7921

Public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Regional Tour

The commission tour will focus on community development activities, natural resources use and recreation opportunities present in and around the Grande Ronde Valley. The commission will learn about the opportunities and challenges for cities and counties in northeast Oregon. The tour is intended to provide the commission with information and experiences specific to Union County and in general to Eastern Oregon.

Staff Contact: **Amie Abbott**, Executive Assistant to the Director & Commission
amie.abbott@state.or.us, (503) 934-0045

No public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item M 000006

Roundtable

The Land Conservation and Development Commission will hold a community roundtable discussion regarding local and regional land use issues.

Staff Contact: **Amie Abbott**, Executive Assistant to the Director & Commission
amie.abbott@state.or.us, (503) 934-0045

Friday, September 22, 2017, 9:00 a.m.

Item 6 Sage Grouse Annual Report and Development Registry Demonstration

Department staff will provide a briefing on the first annual report delivered to the commission, the Governor's office, and counties regarding development in sage-grouse core habitat in eastern Oregon. The briefing will preview the new sage-grouse development registry used by local and state jurisdictions to track development projects in core habitat areas. Pete Baki, Greater Sage-Grouse Mitigation Coordinator with the Oregon Department of Fish and Wildlife, will provide background information on Secretarial Order 3353 and provide an update on the progress and work completed under the order.

Staff Contact: **Jon Jinings**, Community Services Specialist
jon.jinings@state.or.us, (541) 318-7920

Public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item 14 Request to file agency brief in appeal - Jackson County

State law requires commission approval of a DLCD director's decision to participate in an appeal of a local government land use decision. Only the director or department staff on the director's behalf, the applicant, and the affected local government may submit written or oral testimony concerning commission approval of a director's recommendation to participate in an appeal of a land use decision. The director is seeking to file an agency brief in an appeal of a plan amendment approved by Jackson County to allow a Goal 3 exception for an 80-acre photovoltaic solar power generation facility.

Staff Contact: **Tim Murphy**, Farm and Forest Lands Specialist
timothy.murphy@state.or.us, (503) 934-0048

Limited testimony will be accepted, as described above.

Action. The commission will be asked to take an action on this item.

Item 15 Request to Appeal - Clackamas County

State law requires commission approval of a DLCD director's decision to seek review of a local government land use decision. Only the director or department staff on the director's behalf, the applicant, and the affected local government may submit written or oral testimony concerning commission approval of a director's recommendation to file or pursue an appeal of a land use decision. The director is seeking review of a plan amendment approved by Clackamas County to allow a Goal 3 exception for a 70-acre photovoltaic solar power generation facility.

Staff Contact: **Tim Murphy**, Farm and Forest Lands Specialist
timothy.murphy@state.or.us, (503) 934-0048

Limited testimony will be accepted, as described above.

Action. The commission will be asked to take an action on this item.

Item M 000008

Item 9 Adoption of Criteria for a Land Use Final Order for TriMet Southwest MAX Corridor Light Rail Project (HB 3202)

House Bill 3202, enacted by the 2017 Legislative Assembly, requires the commission to establish criteria to be used by the Metro Council to adopt a land use final order approving project improvements and locations for the Southwest Corridor MAX Light Rail Project. The commission will hold a hearing and may adopt an order establishing criteria.

Staff Contact: **Ellen Miller**, Legislative Coordinator/Urban Policy Analyst
ellen.l.miller@state.or.us, (503) 934-0020

Public testimony will be accepted.

Action. The commission will be asked to take an action on this item.

Item 7 Schedule and Criteria for Annual Director's Evaluation

The commission will begin the annual director's evaluation; the subcommittee will recommend a schedule and criteria for conducting evaluation, and the public will have an opportunity to comment.

Staff Contact: **Vickie McDermott**, Human Resources Manager
victoria.a.mcdermott@state.or.us, (503) 934-0401

Public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item 4 Information Management Modernization Initiative Summary: Data and Tools for Our Stakeholders

The commission will receive a presentation about the Information Management Modernization Initiative (IMMI) that formally concluded June 30, 2017. This 5-year initiative was a significant effort by the department to modernize agency information resources. Staff will report on data and tools that provide the department, the public, and local jurisdictions with easier access to planning information for improved and more informed decision-making. Staff will also report on the future of information resources at DLCD now that IMMI has come to a close.

Staff Contact: **Rachel Smith**, Information Resource Coordinator
rachel.smith@state.or.us, (503) 934-0295

Public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item 8 Affordable Housing Pilot Project - Status Update

Department staff will brief the commission on outreach efforts and potential candidates for the **Affordable Housing Pilot Program**, developed in response to **HB 4079 (2016)**. Staff will announce the new pre-application deadline of November 1, 2017.

Staff Contact: **Gordon Howard**, Principal Urban Planner
gordon.howard@state.or.us, (971) 673-0964

Public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item 10 Director's Report

The commission will receive an update by the director on recent matters concerning the department.

Staff Contact: **Jim Rue**, Director
jim.rue@state.or.us, (503) 934-0002

No public comment will be accepted.

Briefing. The commission will not be asked to take action on this item.

Item M 000009

Item 12 Placeholder Request to Appeal

State law requires commission approval of a DLCD director's decision to seek review of a local government land use decision. Only the director or department staff on the director's behalf, the applicant, and the affected local government may submit written or oral testimony concerning commission approval of a director's recommendation to file or pursue an appeal, or intervention in an appeal, of a land use decision, expedited land division, or limited land use decision. This item is scheduled as a placeholder as the department does not anticipate making such a request.

Item 13 Other Business

The commission reserves this time, if needed, for other business.

The Land Conservation and Development Commission

Oregon's seven-member Land Conservation and Development Commission, assisted by the Department of Land Conservation and Development, adopts state land use goals, assures local plan compliance with the goals, coordinates state and local planning and manages the coastal zone program. Commissioners are unpaid citizen volunteers appointed by the Governor and confirmed by the Senate. Commissioners are appointed to four-year terms and may not serve for more than two consecutive terms. The statute establishing the commission, ORS chapter 197, also directs that members be representative of the state. The commission meets approximately every two months to conduct its business and direct the work of the department.

Commissioners:

Melissa Cribbins (Coos Bay)	Robin McArthur (Portland)
Bart Eberwein (Portland)	Greg Macpherson, Chair (Lake Oswego)
Sherman Lamb (Talent)	Catherine Morrow (Bend)
Jerry Lidz, Vice-chair (Eugene)	

The meeting location is accessible to persons with disabilities. To request an interpreter for the hearing impaired or for other accommodations for persons with disabilities, please make requests at least 48 hours before the meeting to Amie Abbott at (503) 934-0045, amie.abbott@state.or.us, or by TTY: Oregon Relay Services (800) 735-2900.

Guidelines for Public Testimony:

The commission places great value on testimony from the public. The commission welcomes public comment and testimony for those items so indicated on the agenda.

Persons who wish to testify are requested to:

- Complete a Testimony Sign Up Form, provided at the meeting handout table
- Provide a written summary in advance to amie.abbott@state.or.us (The deadline to submit advance testimony if you wish to have the commission review it prior to the meeting is ten days prior to the meeting.) If you are unable to supply materials in advance, please bring 20 copies to the meeting for distribution to the commission, staff and members of the public
- Recognize that substance, not length, determines the value of testimony
- Endorse, rather than repeat, testimony of other witnesses with whom you agree

Video conferencing Option

Item M 000010

Attachment B

Nov. 2-3, 2017, EQC meeting

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The commission has added the option of testifying by videoconference when the commission is holding a travelling meeting outside the Willamette Valley. The videoconferencing will be available at the department's office in Salem: Basement Hearing Room, 635 Capitol Street NE, Salem, Oregon 97301. Please note that the quality of video technology is not guaranteed. In addition, written testimony will only be provided electronically. Therefore, if your testimony is critical, please plan to attend the meeting in person.

Those testifying by videoconference are asked to follow the above "Guidelines for Public Testimony."

Because of the uncertain length of time needed, the commission may address an item at any time in the meeting. Anyone wishing to be heard on an item without a set time should arrive when the meeting begins to avoid missing an item of interest. Topics not on the agenda may be introduced and discussed during the Director's Report, Commission Business and Reports, or Other.

Item M 000011