Oregon
Theodore R. Kulongoski, Governor

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June 4, 2009

TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Darren Nichols, Community Services Division Manager

SUBJECT: **Agenda Item 10, June 4 – 5, 2009, LCDC Meeting**

# PERIODIC REVIEW STATUS UPDATE

## I. AGENDA ITEM SUMMARY

### A. Type of Action and Commission Role

The commission will be asked to amend the schedule for bringing additional cities into periodic review during the 2007-09 and 2009-11 biennia, based on statutory considerations, budget conditions, and a recommendation from staff.

### B. Staff Contact Information

For additional information on this agenda item, contact Darren Nichols, Community Services Division Manager, at (503) 373-0050 ext. 255 or e-mail Darren.Nichols@state.or.us.

## II. SUMMARY OF RECOMMENDED ACTION

Staff recommends the commission resume periodic review efforts according to a revised schedule for the 2009-11 biennium (Attachment A), but that the commission review the status of periodic review work programs again in early 2010.

## III. BACKGROUND

The commission approved a schedule at its October 2007 meeting that identified twenty one (21) cities to receive notice to begin periodic review during 2007-09 and 2009-11 (Attachment A). Following that schedule, the department sent notice to nine cities. Six additional cities were scheduled to receive notice in April 2009 and another six cities were slated to receive notice

during the 2009-11 biennium. Outside the formal periodic review schedule, the commission also received requests from Junction City and Silverton to begin periodic review voluntarily.

Following the economic downturn late in 2008, the legislature found it necessary to disappropriate a significant portion of the department's grant funds reserved for periodic review work tasks. Additional uncertainty regarding the department's 2009-11 budget prompted the commission and the department to stop initiating any new periodic review work programs (unless the community asked to proceed regardless of state funding status) until the commission and the department could better estimate the availability of staff and funds to commit to periodic review.1

Since that suspension, the Ways and Means Committee has voted to recommend a 2009-11 budget that maintains DLCD's core general funds grants program at historical funding levels (a $500,000 appropriation for infrastructure planning in newly-urbanizing areas made in 2007 would not be continued). The recommended budget also would allow DLCD staff to continue to provide support for local government periodic review efforts.

## IV. DEPARTMENT RESOURCES

In establishing the initial periodic review schedule, the commission expressed concern about the department's ability to provide adequate resources for the number of cities in periodic review. At that time, department staff felt confident that 21 cities could successfully complete periodic review at then-current resource and staffing levels within the two biennia period.

In order to balance Oregon's budget for the current biennium, the legislature disappropriated DLCD's remaining grant funds: $585,000 reserved primarily for periodic review work tasks.[2] The need for periodic review projects did not subside with disappropriation. The demand simply rolled over into the coming 2009-11 biennium, along with any new demands.

The total number of jurisdictions waiting to start periodic review is roughly the same and the overall need for periodic review grant funds remains roughly the same. The overall two-biennia grant total, however, is reduced by $585,000. The disappropriation therefore requires a shift in either the number of cities starting periodic review, the relative percentage of funds allocated to periodic review, the degree to which state funds are used to pay the costs of periodic review, or all three.

The department estimates the grant needs for each jurisdiction in periodic review will be between $75,000 and $100,000 (assume 3 to 4 plan updates at $25,000 to $30,000 per update). For the nine cities that have already started periodic review, the expected need ranges between $675,000

[1] ORS 197.629 authorizes the commission to "*…establish and maintain a schedule for periodic review of comprehensive plans and land use regulations.*"

[2] The $585,000 represents funds not yet under contract. Existing grant contracts are not impacted by the disappropriation.

and $900,000. On a percentage basis, those figures represent approximately 1/3 to 1/2 of the available grant budget after other grant priorities are fulfilled (Gorge, Planning Assistance, Oregon Consensus). The Grants Advisory Committee recently discussed and generally supported increasing the percentage of grants available for periodic review tasks from these estimates to as much as 60% or about $1.1 million. The committee's preliminary discussion also emphasized the importance of assisting newly approved periodic review programs, and not prioritizing funding for long-standing prior periodic review tasks. The commission may wish to revisit the status of overdue periodic review programs in making a final decision at its July meeting.

Under the recommended budget, the department continues to be able to provide hands-on staff support to jurisdictions scheduled for periodic review, in addition to grant funds. The commission may however consider work load priorities resulting from its policy agenda discussion as part of its decision whether and when to start periodic review for jurisdictions on the revised schedule.

## V. CONCLUSION AND PRELIMINARY RECOMMENDATION

The department tentatively recommends the commission resume its previously- approved periodic review schedule during the 2009-11 biennium. However, taking into account funding delays caused by the economic downturn, and the relatively slow progress of communities that have already begun periodic review, the commission may wish to delay the commencement of periodic review for several cities into the 2011-13 biennium. Those communities would be identified after consulting with all of those on the list, as well as other entities that have an interest in periodic review. Pending discussions with the Grants Advisory Committee and receipt of a final grants recommendation from the committee, the commission will be asked to make a final decision at its July meeting in Brookings. The department further recommends that the commission direct staff to follow up on the status of department resources at strategic intervals during the coming biennium, including at least one update presented early in 2010.

## VI. ATTACHMENTS

**A. 2007-2009 / 2009-2011 - DRAFT REVISED PERIODIC REVIEW SCHEDULE**

**B. March 9, 2009 LCDC staff report and attachments**

# *Attachment A*

## 2007-2009 / 2009-2011 - DRAFT REVISED PERIODIC REVIEW SCHEDULE

*Periodic Review notice sent:*

| | |
|---|---|
| October 2007 | Forest Grove**<br>Keizer*<br>Portland*<br>Hermiston**<br>The Dalles** |
| April 2008 | Lake Oswego**<br>Pendleton**<br>~~Roseburg~~<br>Tigard*<br>Troutdale** |

*Voluntary periodic review:*

Junction City (approved)
Silverton (suspended pending funding)

Schedule suspended:

| | |
|---|---|
| ~~April 2009~~ | Happy Valley<br>Milwaukie<br>Newberg<br>~~Pendleton~~<br>Roseburg<br>Sherwood<br>Tualatin |

**Delayed to 2011-2013**
Baker City
Gladstone
Newport
Redmond
West Linn
Wood Village

* Cities with approved work programs
** Cities that have requested to postpone work program approval pending available funding

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March 9, 2009

TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Darren Nichols, Community Services Division Manager

SUBJECT: **Agenda Item 2a, March 11-13, 2009 LCDC Meeting**

# PERIODIC REVIEW SCHEDULE AMENDMENT

## I. AGENDA ITEM SUMMARY

### A. Type of Action and Commission Role

The commission will be asked to amend the schedule for bringing additional cities into periodic review during the 2007-09 and during the 2009-2011 biennium, based on statutory considerations, current budget conditions, and a recommendation from staff.

### B. Staff Contact Information

For additional information on this agenda item, contact Darren Nichols, Community Services Division Manager, at (503) 373-0050, ext. 255 or at Darren.Nichols@state.or.us

## II. SUMMARY OF RECOMMENDED ACTION

Staff recommends that the commission suspend its previously approved periodic review schedule for the 2007-09 biennium until the commission and the department can review and assess the department's general fund grants budget for the 2009-2011 biennium.

## III. BACKGROUND

The Commission approved a schedule at its October 2008 meeting (Enterprise) that included twenty one (21) cities to receive notice to begin periodic review during 2007-2009 and 2009-2011 (see Attachment B). Following the Commission's adoption of that schedule, the department

sent notice to nine cities. An additional six cities are scheduled to receive notice in April 2009; the remaining six cities are slated to receive notice at some point during 2009-2011.

In order to assist cities starting periodic review during the 2007-2009 biennium the commission and the department agreed to provide roughly half of the department's general fund grants budget for periodic review work tasks. To that end the department reserved a significant portion of funds for cities completing plan evaluations and work programs. As you may recall, several cities took longer than expected to develop work programs including five cities that requested an extension for work program submittal. A few cities utilized periodic review grant funds but the majority are still working to complete an approved work program and did not request grant assistance.

ORS 197.629 (Attachment D) authorizes the commission to "*…establish and maintain a schedule for periodic review of comprehensive plans and land use regulations.*"

## IV. DEPARTMENT RESOURCES

Since the commission's last formal discussion of periodic review, national, state and local budgets suffered significant revenue shortfalls. In response to those shortfalls and in order to balance Oregon's current budget, the legislature recently disappropriated DLCD's remaining grant funds of approximately $585,000. Those funds were reserved in large part to fund upcoming periodic review work tasks.1

The disappropriation clearly has implications for the current biennium. Cities completing a periodic review work program will not be able to use DLCD resources for periodic review work tasks between now and June 2009. Because most local budgets are significantly reduced, those cities will not likely begin or will begin only a portion of work tasks this biennium. The likely effect is that those cities currently in periodic review will request greater grant assistance in the 2009-2011 biennium. The 2009-2011 grants budget, however, is also pending legislative budget approval.

In establishing the initial periodic review schedule, the commission expressed concern about the department's ability to provide adequate resources for the number of cities in periodic review. At that time, department staff felt confident that 21 cities could successfully complete periodic review at then-current resource and staffing levels within the two biennia period.

Following recent budget concerns, however, that confidence has waned. In fact, starting six cities in April 2009 and an additional six cities in 2009-2011 without the certainty of grant assistance from department is not advisable at this point until we know more about the level of funding available for general fund grants in 2009-2011.

1 The $585,000 represents funds not yet under contract. Existing grant contracts are not impacted by the disappropriation.

## V. CONCLUSION, RECOMMENDATION AND MOTION

The department recommends the commission suspend its previously approved periodic review schedule for new cities and for requests for voluntary periodic review until the commission and the department can further assess the department's ability to assist with periodic review work tasks during the 2009-2011 biennium. The director further recommends that the commission direct staff to follow up on the status of department resources as soon as the department knows the likely extent of resources available for the coming biennium.

The department recommends that the commission support the Director's recommendation to revise the commission's previously adopted Periodic Review schedule for the 2007-2009 / 2009-2011 biennia to suspend the initiation of new periodic review work programs until the department and commission have opportunity to discuss DLCD budget for 2009-2011.

***Proposed Motion:*** I move that the commission suspend initiation of any new periodic review work programs until department staff are prepared to discuss with the commission DLCD's likely ability to assist with the completion of any existing and new periodic reviews; or

***Alternative Motion (1):*** I move that the commission direct staff to continue to implement the commission's current periodic review schedule utilizing existing department resources; or

Attachments:

A. Proposed Revised Periodic Review Schedule
B. Existing Periodic Review Schedule
C. Analysis of Cuts to Grants Program
D. ORS 197.629 to 197.636 re: commission authority in periodic review

# *Attachment A*

## 2007-09 PERIODIC REVIEW SCHEDULE

Periodic Review notice sent:

**Approved by the Commission June 2007**

| | |
|---|---|
| October 2007 | Forest Grove<br>Keizer<br>Portland<br>Hermiston<br>The Dalles |

**October 2007 recommendation**

| | |
|---|---|
| April 2008 | Lake Oswego<br>Pendleton<br>Tigard<br>Troutdale<br><br>*Junction City |

Periodic Review notice not yet sent:

**Delayed to 2009-11**

Baker City
Gladstone
Newport
Redmond
West Linn
Wood Village
Happy Valley
Milwaukie
Newberg
Roseburg
Sherwood
Tualatin

**Silverton

* Customized Periodic Review previously approved by the Commission.
** Voluntary request to initiate periodic review presently before the Commission.

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October 1, 2007

TO: Land Conservation and Development Commission

FROM: Cora Parker, Acting Director
Rob Hallyburton, Planning Services Division Manager
Darren Nichols, Community Services Division Manager

SUBJECT: **Agenda Item 9, October 11, 2007 LCDC Meeting**

**PERIODIC REVIEW SCHEDULE**

## I. AGENDA ITEM SUMMARY

### A. Type of Action and Commission Role

The Commission will be asked to approve the final schedule for bringing cities into periodic review during the 2007-09 biennium, based on statutory considerations and a recommendation from staff.

A briefing regarding the status of periodic review and the Periodic Review Assistance Team will also be provided; no action on these items is requested.

### B. Staff Contact Information

For additional information on this agenda item, contact Rob Hallyburton, Planning Services Division Manager, at (503) 373-0050, ext. 239, or rob.hallyburton@state.or.us.

## II. SUMMARY OF RECOMMENDED ACTION

Staff recommends the Commission approve the periodic review schedule for the 2007-09 biennium as shown in Attachment A.

## III. BACKGROUND

The Commission approved a schedule at its June 2007 meeting that included only five cities to receive notice in October 2007. The department had not completed discussions with several of the remaining cities eligible to receive notice regarding the appropriate date to begin their initiation of periodic review. Those discussions are now complete, and a recommended schedule for the rest of the biennium is complete.

## IV. PERIODIC REVIEW SCHEDULE

The staff report provided to the Commission for its June 2007 hearing (Attachment B) explains the statutory requirements for the periodic review schedule and the considerations the department used in developing a recommendation. The primary issue that held up completion of the schedule in June was the relationship between the periodic review schedule and the general fund grant cycle.

In previous drafts of the schedule, the department recommended that several cities receive notice to commence periodic review in October 2008. The periodic review statute and rule require the cities to complete a work program within six months and then begin completing the tasks on the work program. This would have meant the cities would have begun task work around March 2009—too early to apply for a 2009-11 periodic review grant and late enough in the 2007-09 cycle that available funds may be scarce.

Department staff concluded discussions with the affected cities and the results are reflected in the recommendation in Attachment A. Specifically, Tigard has been moved up to April 2008 while Happy Valley and Milwaukie have been moved back to April 2009.

Additionally, the June staff recommendation indicated Baker City should receive notice in April 2008. Due to recent changes in the city's staffing, concerns have been raised regarding the city's capacity to begin periodic review at that time. The recommendation in Attachment A delays Baker City's notice to 2009-11. If further developments at the city indicate a capacity to complete periodic review is restored sooner than that, the department will return to the Commission with a request to amend the schedule.

Finally, the department has been informed that a request to enter periodic review by a city not required to complete the process—Junction City—will be made in time for consideration at the Commission's November meeting. The department currently anticipates a recommendation to approve the request.

## V. OTHER PERIODIC REVIEW ISSUE UPDATES

### A. Periodic Review Assistance Team

ORS 197.639 and OAR 660-025-0060 authorize the Commission to designate "one or more Periodic Review Assistance Team(s) to coordinate state, regional or local public agency comment, assistance, and information into the evaluation and work program development process." The Commission has done so, and such as assistance team has been in existence for a number of years.

During the last several years while periodic review activity has been quite low, the team has existed only as an e-mail group. Due to new cities now entering the process, the department recently reconvened the team. Due to changes in state agency personnel, there are a number of new members. The department has construed the statute and rule regarding team designation to

apply to the state agencies, not the individuals, invited to participate and has therefore not sought Commission endorsement of reappointments. The state agencies represented on the Periodic Review Assistance Team are:

Department of Aviation
Department of Agriculture
Economic and Community Development Dept.
Department of Environmental Quality
Department of Fish and Wildlife
Department of Forestry
Department of Geology and Mineral Industries
Dept. of Human Services (Drinking Water)
Housing and Community Services Dept.
Department of State Lands
Parks and Recreation Department
State Historic Preservation Office
Department of Transportation
Water Resources Department

Local government is also represented on the team.

The Economic Revitalization Team is also recognized in statute and rule as an appropriate body to assist in coordinating state agency involvement in periodic review. The Economic Revitalization Team does not, however, include all the same departments as the Periodic Review Assistance Team, so all the functions cannot be consolidated in one body. Department staff has met with the directors of the Economic Revitalization Team agencies and with one regional team (so far) to discuss issues related to periodic review.

### B. October 2007 Periodic Review Notice

The schedule approved by the Commission at its June 2007 meeting included five cities that would receive notice to commence periodic review "on or about October 1, 2007." Due largely to Periodic Review Assistance Team members' availability, the team didn't meet until September 27 for its initial organizational meeting. Consequently, the department has not received information yet from several of the agencies to include in the periodic review notices. The department anticipates notice will be sent to the five cities in late October.

## VI. CONCLUSION AND RECOMMENDATION

The department recommends the Commission approve the periodic review schedule for 2007-09 as shown in Attachment A.

# *Attachment A*

## 2007-09 PERIODIC REVIEW SCHEDULE

Periodic Review notice sent:

**Approved by the Commission June 2007**

| | |
|---|---|
| October 2007 | Forest Grove<br>Keizer<br>Portland<br>Hermiston<br>The Dalles |

**October 2007 recommendation**

| | |
|---|---|
| April 2008 | Lake Oswego<br>Roseburg<br>Tigard<br>Troutdale |
| April 2009 | Happy Valley<br>Milwaukie<br>Newberg<br>Pendleton<br>Sherwood<br>Tualatin |

**Delayed to 2009-11**

Baker City
Gladstone
Newport
Redmond
West Linn
Wood Village

*Attachment C*

## Analysis of Proposed Grant Program cuts to 2007-2009 budget

The following provides a summary of proposed projects eligible for grant funding from the Department of Land Conservation and Development in the 2007-2009 biennium. Projects listed here are either waiting for DLCD contract or are waiting submittal, pending grant fund availability. Projects listed here are fully-developed and, in most cases, tentatively approved. The projects can be completed within the remainder of the biennium if they can start in March.

***Grant Applications submitted to DLCD – Not yet under contract***

The Dalles – Periodic Review Work Program $79,500.

The Dalles' periodic review work program is a multi-year development including the careful coordination of The Dalles, Wasco County, Warm Springs Tribal government, Columbia River Gorge Commission and state agency staff. The Dalles has worked diligently for the past 12 to 18 months to develop a work program that includes all of the Created by Darren Nicholsfunding The Dalles' periodic review jeopardizes a tentative agreement between the parties to work together in finding solutions to the city's need for an urban growth boundary expansion. Further delay also places The Dalles (and other cities currently in periodic review) at greater risk of losing DLCD funding assistance in periodic review due to increased competition for limited funds in the 2009-2011 biennium.

Forest Grove – Periodic Review Work Program $75,000.

Forest Grove is now more than one year into its development of a periodic review work program. The City has worked closely with local and regional agency partners to develop a satisfactory work program. The work program has been adopted by city council and approved by DLCD. The city is prepared to begin work immediately, including seasonally sensitive updates to the city's wetlands inventory. Delayed funding of periodic review work program will present challenges to Forest Grove as it seeks to coordinate with Metro's Urban and Rural Reserves and with Metro's Urbanization Report. A delay in funding now, essentially places Forest Grove 3 to 5 years behind schedule and may hinder the city's ability to recover from the economic downturn.

Grants Pass – Analysis of UGB expansion areas $25,000.

Grants Pass recently completed an update to its early-biennium request for grant funds to analyze potential expansion areas adjacent to its urban growth boundary. The city is

operating under the assumption that DLCD will fund its request and that the project will be complete by June 30, 2009. Delay of the project until next biennium will make it nearly impossible for Grants Pass to compete with cities in periodic review (higher priority for funding).

Deschutes County / Redmond: $45,000.
Regional Economic Opportunities Analysis

Deschutes County and the City of Redmond recently completed a department-funded analysis of central Oregon's rail dependent industrial lands opportunities. Following that study, the County and the City have determined a need for specific large industrial sites near the rail facility. The local governments are working closely with DLCD, OECDD, DSL and ODOT to add development-ready land to the City of Redmond's UGB. Postponing this project jeopardizes critical momentum and a strategic state/local partnership opportunity. Delay also jeopardizes Redmond's ability to compete with increased project applications in 2009-2011.

METRO Urban and Rural Reserves request $467,775.
Work already underway = estimated grant award $150,000.
The METRO Urban and Rural Reserves project encompasses what is arguably one of the state's largest planning and development efforts. This is a multi-year project involving 26 cities, three counties and several state agencies. The project is also closely linked to Metro's Regional Transportation System plan update and Metro's 2009 Urbanization Study. The METRO region continues to work on the Urban and Rural Reserves designation project; local and regional resources, however, may not be sufficient to complete this work or the work may be delayed due to a lack of funding. The designation of Urban and Rural Reserves is a significant advancement in the capacity of Oregon's Statewide Planning program. The effort is likely to offer benefits to communities and regions statewide, provided the effort is successfully completed.

Prineville Zoning Code update $47,000.

Prineville's Zoning Code Update proposal is for completion of an outstanding task required under a prior periodic review work program. With an increasing number of jurisdictions resuming periodic review, Prineville's request is likely to encounter significant competition for grant funding and may be delayed by one or two biennium until sufficient funds are available to complete this work.

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**Subtotal (approximate)** **$421,500**
**Total request = $739,275.**

***Grant Applications ready to submit (estimated project costs)***

The following list includes cities that have already initiated statutorily mandated periodic review of their comprehensive plans. An additional 10 cities are scheduled to begin periodic review during the next two years. That translates into an approximate doubling of demand for Periodic Review grant requests during the 2009-2011 biennium. Typically, periodic review efforts have been the department's highest priority for funding. In the event the department is unable to meet current demand for assistance, the demand for grant funds will simply be delayed into the next biennium or further until local and state revenues rebound.

At the same time, the demand for technical assistance grants is also expected to increase as cities and counties use the lull in development activity to catch up on long-range planning efforts. Technical assistance grant requests over the past decade have primarily focused on economic development and economic development-related planning. To the extent communities are unable to complete needed economic development plans, those communities will be significantly less prepared to take advantage of eventual economic revitalization opportunities.

*Communities that have recently initiated Periodic Review*

| | |
|---|---|
| The Dalles (PR work program partially funded in 2007-2009) | $ ??? |
| Keizer (PR work program partially funded in 2007-2009) | $ ??? |
| Portland (PR work program partially funded in 2007-2009) | $ ??? |
| | |
| Lake Oswego – Periodic Review Work Program | $ ??? |
| Troutdale – Periodic Review Work Program | $30 -50,000. |
| Hermiston – Periodic Review Work Program (Goals 5, 9) | $50,000. |
| Pendleton – Periodic Review Work Program (Goals 5, 9) | $50,000. |
| Baker City – Periodic Review Work Program (Goals 5, 9) | $50,000. |
| Happy Valley – Periodic Review Work Program | $ ??? |
| Milwaukie – Periodic Review Work Program | $ ??? |
| Tigard – Periodic Review Work Program | $ ??? |
| Roseburg – Periodic Review Work Program | $ ??? |
| **Subtotal (approximate)** | **$200,000. +** |

*Communities scheduled to initiate Periodic Review in 2009 to 2011*

April 1, 2009
Newberg
Sherwood

Tualatin
Silverton (at city's request to LCDC)
During 2009-11 biennium
Gladstone
Newport
Oregon City
Redmond
West Linn
Wood Village

***Likely applications under tentative funding commitment (estimated project costs)***

Bear Creek Valley Regional Problem Solving $50,000. +

The Bear Creek Valley Regional Problem Solving (RPS) effort is a decade-long collaboration between Jackson County, Jackson County cities, other public and private interests and state agencies to balance population growth, ag and natural resource protection and development opportunities in Jackson County over the next 50 years.

The project represents a large investment in state and local resources; the project also represents a tremendous investment of political coordination to get to this point. The participants are now collectively prepared to move forward with a final agreement and to begin adopting amendments to local plans and ordinances. One remaining task in the successful implementation of the RPS effort is the drafting of legal findings of fact. Following several years of state and local investment in the project, local governments have asked DLCD to provide necessary resources to assist with the legal findings.

Without state assistance, the project faces significant uncertainty and the possibility of collapse, taking with it an enormous investment of time and resources and partnership.

Tillamook County - Oregon Solutions $25 - 30,000.

State and local agencies have worked closely with Oregon Solutions to assist Tillamook and Tillamook County solve flooding problems in developed areas along Highway 101. The Oregon Solutions project needs roughly $30,000 to complete a real estate feasibility analysis for private property owners and existing businesses considering moving to other locations in Tillamook.

Mosier - Main Street Plan $40,000.

Self-explanatory – request for assistance with main street planning in a growing small community in the Columbia Gorge.

Vernonia – UGB expansion to facilitate school siting $15,000.

DLCD and Oregon Solutions have worked closely with the City of Vernonia and with Columbia County to assist Vernonia and the Vernonia School District with successful protection and potential relocation of school facilities following massive flooding during December of 2007. DLCD has invested $145,000 to analyze the costs and benefits of rebuilding flood-proof schools and/or relocating school facilities to alternative sites in the community. The City and the School district are now prepared to make a decision but will need additional funds to complete and implement the final planning work.

Hood River County Airport plan update $ 7500.

**Subtotal (approximate) $142,500.**

*Attachment D*

**197.629 Schedule for periodic review; coordination.** (1) The Land Conservation and Development Commission shall establish and maintain a schedule for periodic review of comprehensive plans and land use regulations. Except as necessary to coordinate approved periodic review work programs and to account for special circumstances that from time to time arise, the schedule shall reflect the following timelines:

(a) A city with a population of more than 2,500 within a metropolitan planning organization or a metropolitan service district shall conduct periodic review every seven years after completion of the previous periodic review; and

(b) A city with a population of 10,000 or more inside its urban growth boundary that is not within a metropolitan planning organization shall conduct periodic review every 10 years after completion of the previous periodic review.

(2) A county with a portion of its population within the urban growth boundary of a city subject to periodic review under this section shall conduct periodic review for that portion of the county according to the schedule and work program set for the city.

(3) Notwithstanding subsection (2) of this section, if the schedule set for the county is specific as to that portion of the county within the urban growth boundary of a city subject to periodic review under this section, the county shall conduct periodic review for that portion of the county according to the schedule and work program set for the county.

(4) If the Land Conservation and Development Commission pays the costs of a local government that is not subject to subsection (1) of this section to perform new work programs and work tasks, the commission may require the local government to complete periodic review when the local government has not completed periodic review within the previous five years if:

(a) A city has been growing faster than the annual population growth rate of the state for five consecutive years;

(b) A major transportation project on the Statewide Transportation Improvement Program that is approved for funding by the Oregon Transportation Commission is likely to:

(A) Have a significant impact on a city or an urban unincorporated community; or

(B) Be significantly affected by growth and development in a city or an urban unincorporated community;

(c) A major facility, including a prison, is sited or funded by a state agency; or

(d) Approval by the city or county of a facility for a major employer will increase employment opportunities and significantly affect the capacity of housing and public facilities in the city or urban unincorporated community.

(5) The Land Conservation and Development Commission may schedule periodic review for a local government earlier than provided in subsection (1) of this section if necessary to ensure that all local governments in a region whose land use decisions would significantly affect other local governments in the region are conducting periodic review concurrently, but not sooner than five years after completion of the previous periodic review.

(6) A city or county that is not required to complete periodic review under subsection (1) of this section may request periodic review by the commission.

(7) As used in this section, “metropolitan planning organization” means an organization located wholly within the State of Oregon and designated by the Governor to coordinate transportation planning in an urbanized area of the state pursuant to 49 U.S.C. 5303(c). [1999 c.622 §10; 2001 c.527 §3; 2005 c.829 §2]

**197.630** [1981 c.748 §5c; repealed by 1983 c.827 §59]

**197.631 Commission to amend regulations to facilitate periodic review.** In order to use

state and local periodic review resources most efficiently and effectively and to concentrate periodic review on adequate provision of economic development, needed housing, transportation, public facilities and services and urbanization, the Land Conservation and Development Commission shall adopt, amend or repeal the statewide land use planning goals, guidelines and corresponding rules as necessary to facilitate periodic review and to provide for compliance by local governments with those goals not described in ORS 197.628 (2) through the post-acknowledgment procedures of ORS 197.610 to 197.625. [1999 c.622 §11; 2005 c.829 §3]

**197.633 Two phases of periodic review; rules; appeal of decision on work program; schedule for completion; extension of time on appeal.** (1) The periodic review process is divided into two phases. Phase one is the evaluation of the existing comprehensive plan, land use regulations and citizen involvement program and, if necessary, the development of a work program to make needed changes to the comprehensive plan or land use regulations. Phase two is the completion of work tasks outlined in the work program.

(2) The Land Conservation and Development Commission shall adopt rules for conducting periodic review. The rules shall provide a process for:

(a) Initiating periodic review;

(b) Citizen participation;

(c) The participation of state agencies;

(d) The preparation, review and approval of an evaluation of a comprehensive plan and land use regulations;

(e) Review of a work program; and

(f) Review of completed work tasks.

(3) A decision by the Director of the Department of Land Conservation and Development to approve a work program, that no work program is necessary or that no further work is necessary is final and not subject to appeal.

(4) The director:

(a) Shall take action on a work task not later than 120 days after the local government submits the work task for review unless the local government waives the 120-day deadline or the commission grants the director an extension. If the director does not take action within the time period required by this subsection, the work task is deemed approved. The department shall provide a letter to the local government certifying that the work task is approved unless an interested party has filed a timely objection to the work task consistent with administrative rules for conducting periodic review. If a timely objection is filed, the director shall refer the work task to the commission.

(b) May approve or remand a work task or refer the work task to the commission for a decision. A decision by the director to approve or remand a work task may be appealed to the commission.

(5) Except as provided in this subsection, the commission shall take action on the appeal or referral within 90 days of the appeal or referral. Action by the commission in response to an appeal from a decision of the director is a final order subject to judicial review in the manner provided in ORS 197.650. The commission may extend the time for taking action on the appeal or referral if the commission finds that:

(a) The appeal or referral is appropriate for mediation;

(b) The appeal or referral raises new or complex issues of fact or law that make it unreasonable for the commission to give adequate consideration to the issues within the 90-day limit; or

(c) The parties to the appeal and the commission agree to an extension, not to exceed an additional 90 days.

(6) The commission and a local government shall attempt to complete periodic review within three years after approval of a work program. In order to promote the timely completion of

periodic review, the commission shall establish a system of incentives to encourage local government compliance with timelines in periodic review work programs. [1991 c.612 §3; 1993 c.18 §38; 1999 c.622 §3; 2001 c.527 §1; 2005 c.829 §4]

**197.635** [1981 c.748 §6; repealed by 1983 c.827 §59]

**197.636 Procedures and actions for failure to meet periodic review deadlines.** (1) Upon good cause shown by a local government, the Director of the Department of Land Conservation and Development may allow the local government an extension of time for submitting a work program or completing a work task. A decision by the director to grant or deny an extension may be referred to the Land Conservation and Development Commission by the director. The Department of Land Conservation and Development or the commission shall not extend the deadline for submitting a work program more than once nor for more than 90 days, and shall not extend the deadline for a work task more than once nor for more than one year.

(2) If a local government fails to submit a work program or to complete a work task by the deadline set by the director or the commission, including any extension that has been granted, the director shall schedule a hearing before the commission. The commission shall issue an order imposing one or more of the following sanctions until the work program or the work task receives final approval by the director or the commission:

(a) Require the local government to apply those portions of the goals and rules to land use decisions as specified in the order. Sanctions may be imposed under this paragraph only when necessary to resolve a specific deficiency identified in the order.

(b) Forfeiture of all or a portion of the grant money received to conduct the review, develop the work program or complete the work task.

(c) Completion of the work program or work task by the department. The commission may require the local government to pay the cost for completion of work performed by the department, following the withholding process set forth in ORS 197.335 (4).

(d) Application of such interim measures as the commission deems necessary to ensure compliance with the statewide planning goals.

(3) If the department receives a work program or work task completed in response to a commission order issued under subsection (2) of this section, the director shall evaluate and issue a decision on the work program or work task within 90 days.

(4) Commission action pursuant to subsection (1) or (2) of this section is a final order subject to judicial review in the manner provided in ORS 197.650. [1991 c.612 §4; 1999 c.622 §4; 2001 c.527 §2; 2005 c.829 §5]