



Oregon

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February 27, 2015

TO: Land Conservation and Development Commission

FROM: Jim Rue, Director

SUBJECT: **Agenda Item 11, January 22-23, 2015, LCDC Meeting**

DIRECTOR'S REPORT

I. INFORMATION UPDATES

A. PARTICIPATION IN APPEALS, AND RECENT LUBA AND APPELLATE COURT OPINIONS

ORS 197.090(2) requires the director of the Department of Land Conservation and Development (DLCD and/or department) to report to the Land Conservation and Development Commission (LCDC and/or commission) on each appellate case in which the department participates, and on the position taken in each such case.

ORS 197.040(c)(C) requires LCDC to review recent Land Use Board of Appeals (LUBA) and appellate court decisions to determine whether goal or rule amendments are needed

1. Department Participation in Appeals

Between December 26, 2014 and February 5, 2015, the department received ten copies of notices of appeal filed with LUBA. The department filed none of these notices, and was not named as a party in any of these notices.

2. LUBA Opinions

Between December 9, 2014 and January 30, 2015, the department received copies of 26 recently issued LUBA opinions. Of these, LUBA dismissed ten, remanded eight, affirmed seven, and reversed one.

One decision concerns the application or interpretation of a statewide planning goal or LCDC administrative rule:

Goal 16, Estuarine Resources and Goal 17, Coastal Shorelands 3; Oregon Coast Alliance v. City of Brookings, LUBA 2014-087, issued January 6, 2015. LUBA remanded a decision by the City

of Brookings approving an annexation, comprehensive plan amendment, rezone, and shoreland boundary amendment for a 13.33-acre parcel adjacent to the Chetco River estuary. LUBA agreed with the petitioners that the city's findings had not properly addressed concerns raised by a number of persons and federal agencies. These concerns related to impacts to estuarine resources addressed in Goal 16, "Coastal Shorelands," which requires preparation of an impact assessment for actions that would potentially alter the estuarine ecosystem. The city's findings simply concluded that "the application has taken appropriate precautions to prevent any alteration of the estuarine ecosystem."

LUBA did not agree with the petitioner's challenge to the city's decision based upon Goal 16. The petitioner asserted that a piped creek running through the property should have been included within the coastal shorelands boundary pursuant to the Goal 16 requirement that the boundary include "natural or man-made riparian resources, especially vegetation needed to stabilize the shoreline and to maintain water quality and temperature necessary for the maintenance of fish habitat and spawning areas." LUBA found no evidence in the record that the upland portion of a piped creek, with no apparent hydrologic or other connection with the adjacent land it traverses, has "riparian resources" within the meaning of Goal 16.

This decision does not require goal or rule amendments.

3. Appellate Court Opinions

None.

4. Other Opinions of Interest

None.

5. Appeal Notices of Interest

Vacation Rental Dwellings in Lincoln City: *Oregonians in Action v. City of Lincoln City*, LUBA 2015-002 and 2015-003, filed January 9, 2015. Appeal of a decision by the City of Lincoln City approving restrictions on vacation rental dwellings.

Golf Course in Curry County: *Oregon Coast Alliance v. Curry County*, LUBA 2015-005, filed January 21, 2015. Appeal of a decision by Curry County approving an 18-hole golf course on land zoned exclusive farm use.

Shoreland Setbacks in Yachats: *Overleaf Village Homeowners Assn. v. City of Yachats*, LUBA 2015-006, filed January 20, 2015. Appeal of a decision by the City of Yachats amending shoreland setback provisions.

Subdivision along Willamette River in Clackamas County: *Daniels v. Clackamas County*, LUBA 2015-009, filed February 5, 2015. Appeal of a decision by Clackamas County approving 13-lot

planned unit development subdivision along the Willamette River between Milwaukie and Gladstone.

6. Measure 37/49

None.

B. GRANTS, INTERGOVERNMENTAL AGREEMENTS, AND CONTRACTS

See “General Fund Grants Program” in subsection II.E, Community Services.

II. DEPARTMENT PROGRAM ACTIVITIES AND INITIATIVES

A. OREGON COASTAL MANAGEMENT PROGRAM (OCMP)

Oregon Coastal Management Program (OCMP) staff has been involved with many ocean and coastal issues including presentations on Oregon’s estuary planning program and shorefront protection at the national Restore America’s Estuaries National Summit on Coastal and Estuarine Restoration in Washington DC. Two OCMP staff also attended the West Coast Ocean Data Portal annual meeting in California with funding from the West Coast Governor’s Alliance for Ocean Health. Staff has been very engaged with planning for an Ocean Summit in early January that will bring together representatives of 40 west coast tribes, ten state agencies and ten federal agencies to discuss regional priorities for ocean health.

Marine Issues: The Ocean Policy Advisory Council (OPAC) held a meeting on October 16th in Newport. The Oregon Department of Fish and Wildlife (ODFW) provided an update on the state’s Marine Reserve System implementation. National Oceanic and Atmospheric Administration (NOAA) staff from headquarters and California provided updates on the progress of the National Ocean Policy and Regional Ocean planning partnerships, and on the NOAA Marine Sanctuaries Program, which recently initiated a new process for groups to nominate areas. OPAC made a decision to focus on marine sanctuaries and is planning to make sanctuaries the main subject of their next meeting which will be held in late April or May in Bandon.

The Northwest National Marine Renewable Energy Center (NNMREC) Pacific Marine Renewable Energy Center (PMEC) Collaborative Workgroup held its quarterly meeting on December 9th in Portland. The workgroup is assisting PMEC in the Federal Energy Regulatory Commission (FERC) licensing, state and federal permitting, and U.S. Bureau of Ocean Energy (BOEM) lease processes for the South Energy Test Site (SETS) off of Newport. The facility will be grid connected and will require a facility onshore where the cable will deliver power to the grid from the offshore devices. Based on bottom surveys, PMEC has had to alter its plans for routing the cable to shore and will have to extend the length of the cable, and possibly shift the location of the facility within the BOEM lease block. The workgroup is still collaborating with NNMREC and FERC on establishing the regulatory timeline, study plans and monitoring.

The Marine Affairs Coordinator continues to work with BOEM and Principle Power on the Windfloat Project application for five wind turbine platforms in federal waters 17 miles off Coos Bay. On November 24th, Principle Power held a meeting in Charleston to discuss the project, and specifically the cable portion. The meeting was targeted toward the regional fishing interests who are interested in both the route and the burial aspects of the cable. Principle Power also indicated that they may deploy larger 8 MW wind turbines instead of the 6 MW turbines as originally planned, which would make the development a 40MW power facility.

The annual Marine Technology Summit was held in Newport on October 21st. It brought together the technology producers, researchers, resource agencies and fishing industry professionals. All manner of technologies and their capabilities were on display and discussed.

Coastal Hazards and Climate Change: On October 29th the Tillamook County Board of Commissioners unanimously adopted, with significant community support, the Neskowin Coastal Hazards Adaptation Plan and associated land use amendments. The department believes that the amendments will be an important model that can be used to assist other coastal communities address increasing coastal erosion. DLCD has supported Tillamook County in this process. The amendments were appealed to LUBA, and DLCD has intervened in the case. OCSD staff continues to support and provide technical assistance to the Tillamook County Community Development Department staff on a variety of other chronic and catastrophic hazard land use planning issues including review of coastal development applications (e.g., proposed Bayocean Spit development).

OCMP staff continues to work with a number of other communities on coastal hazard and dune management issues. Examples of this work during the reporting period include working with: Cannon Beach staff and citizens on a recent dune grading proposal; Gearhart staff and citizens to further coordinate and provide mapping support for development of a dune management plan; Port Orford staff assisting with revisions to their hazard development code requirements and providing new hazard mapping; and Lincoln County staff regarding Bayshore (near Waldport) on two key dune grading projects. These and similar efforts will be ongoing in the foreseeable future.

OCSD staff continues to work with a NOAA coastal fellow who is studying an array of issues associated with beachfront protection and the related Goal 18 beachfront protective structure eligibility inventory. This information, developed over the next year, should assist in future policy discussions with applicable agencies and local governments. The NOAA coastal fellow and Coastal Shores Specialist are also continuing to work with coastal local governments to use and adopt the new Goal 18 beachfront protective structure inventories which provide benefits including simplified eligibility determinations, greater consistency, and enhanced public awareness.

OCMP staff is developing application materials for the next NOAA 309 funding cycle in order to continue to secure needed resources related to our coastal program. These potential resources emphasize coastal hazard resilience measures.

OCMP staff continues to provide tsunami land use assistance and otherwise participate and support hazard planning efforts. Examples include:

- 1) Ongoing development of detailed guidance related to tsunami evacuation facilities improvement planning. This added tool should further the productivity of the overall tsunami land use guide by providing significant assistance to local governments as they develop important financial and development code evacuation financing strategies and options. It should also facilitate more productive OCMP staff assistance to local communities in the future. The consultant team has developed initial draft materials for review and coordination with OCMP staff.
- 2) Education and outreach meetings and visits with a number of communities and citizens. Staff has continued to meet with coastal jurisdictions (Coos County, Bandon, and Lincoln City) to discuss tsunami guidance land use options. This effort will be long term but the outreach efforts have been helpful in encouraging and assisting this important work to move forward.
- 3) OCMP participation in a number of hazard related resilience efforts. Examples of this work include participation in a Lincoln County Risk Map Resilience workshop effort, and an Oregon Sea Grant-led workshop on exploring coastal community resilience in Oregon.

OCMP staff is continuing to work with project co-leads Oregon Sea Grant and the Oregon Partnership for Disaster Resilience and other project partners in south Clatsop County under the NOAA-funded “Coastal Community Resilience Networks Pilot Project” to finalize guidance for resilience planning at the community level. OCMP has requested a three-month no-cost extension the grant (to March 31, 2015) to provide additional time to meet with local planning commissions to discuss possible applications of the resilience planning guidance.

In a complementary project that involves a broader area, the OCMP and project partner Oregon Sea Grant facilitated the third in a series of three meetings under a project to ‘align’ agency climate adaptation priorities in Clatsop and Tillamook Counties. The project is designed to bring all agencies and parties involved in climate change adaptation planning together to collaboratively identify priority climate risks and measures to address those risks. The project team is currently drafting a ‘regional framework for climate adaptation’ based on outputs from four work groups—for infrastructure, health and safety, natural systems, and working lands—that identify priority climate risks, management objectives to address those risks, and actions to achieve those objectives. Project partners represent most federal and state agencies with management responsibilities in Clatsop and Tillamook counties, several communities, and non-governmental organizations.

Estuary Updates: The OCMP has just submitted a proposal for funding to NOAA under the Section 309 Project of Special Merit (PSM) competition for funding to continue working on phase II of the Estuary Habitat Atlas project. This current PSM proposal seeks to extend the methods developed during the previous PSM work to incorporate additional high-value estuarine data sets that are not coast-wide. Our new work will result in a second generation Oregon Estuaries Coastal and Marine Ecological Classification System (CMECS) product that utilizes

the best available modern data for all estuaries encompassed by the 2012-2014 PSM project, and at a spatial scale that is highly relevant for effective resource management practices. We will hear back from NOAA regarding the status of our application in early Spring of 2015.

We are also working with staff at the South Slough National Estuarine Research Reserve on the incorporation of estuary specific habitat information from the Coos Estuary Inventory Project. OCMP staff is providing technical assistance and guidance on the implementation of CMECS classifications and the transformation of data into the established CMECS Framework.

B. DIRECTOR'S OFFICE

An oral update will be provided.

C. ADMINISTRATIVE SERVICES

Fiscal (Budget, Accounting, and Procurement): The fiscal team continues to work with the director's office and division managers to ensure accuracy in financial reporting and timely expenditure projections for 2013-15 while also developing the 2015-17 budget.

The fiscal team continues to evaluate ways to improve services to its customers. A part of this effort includes the accounting unit's efforts in working with the department's SharePoint Work Group. The team is developing a travel claim workflow process within SharePoint. One of the outcomes of this effort will be electronic submittals of travel claims by employees to managers and to the accounting unit. The accounting team will also begin its efforts in biennium year-end statewide financial reporting in the next few months.

Information Technology: The network administrator continues to provide all IT services for the department and is continuing to work with department management in evaluating and determining current and future technology needs for the department. The department continues to recruit for the Information Support Specialist 4 with duties focusing on SharePoint administration and end user support.

D. PLANNING SERVICES

Transportation: The department received the adoption packet from Metro for their Climate Smart Communities project. The department and commission are charged with reviewing Metro's adopted climate strategy for compliance with applicable provisions of the Metropolitan Scenario Planning Rule (OAR 660-044) "in the manner of periodic review. It will likely be presented to the commission in May.

Pre-applications for grants from the Transportation and Growth Management (TGM) program have been sent to all cities, counties, and tribes. We will have results in mid-March and begin following up with interested local governments.

Natural Hazards: The next iteration of the Oregon Natural Hazards Mitigation Plan has been posted for review and comment:

http://www.oregon.gov/LCD/HAZ/pages/NHMP.aspx#Project_Materials

The department continues to monitor the federal consultation between the Federal Emergency Management Agency (FEMA) and the Nation Oceanic and Atmospheric Administration (NOAA) Fisheries Service regarding how the National Flood Insurance Program jeopardizes threatened salmon. NOAA Fisheries has not yet published a new version of the “reasonable and prudent alternatives” they believe should be implemented to protect salmon, but we expect that it is coming soon. When it is published, we will comment on it and help local governments understand the potential impact to their floodplain management programs.

Measure 49: Most of the focus has been to wrap up the rulemaking on transferable development credits, which is presented for commission adoption as agenda item 7. We have heard from several counties and at least a dozen individuals interested in, or with questions about transferring M49 authorizations. The department continues to monitor and participate in court cases regarding vested rights determinations in Yamhill County and Douglas County.

E. COMMUNITY SERVICES

General Fund Grants Program: The Grants Advisory Committee met in January. The committee discussed its recommendation to the commission regarding the 2015-17 Grants Allocation Plan. Department staff will prepare a draft allocation plan based on advisory committee direction and discuss the draft with the committee in March or April for refinement and recommendation. The department expects the commission will be asked to approve the allocation plan at its May 2015 meeting.

Urban Growth Boundaries: Since the last director’s report, the department received two adopted UGB amendment submittals for review:

1. City of Grants Pass and Josephine County submitted an 823-acre expansion to accommodate land for 20 years of growth. The department received two objections to the submittal. The submittal is under review at the time of this report.
2. City of Prineville and Crook County submitted a 114-acre expansion for industrial use. The department received no objections to the submittal. The submittal is under review at the time of this report.

Periodic Review: Task submittals from Florence, Hermiston, and Troutdale are currently under review by the department. The submittals are the final tasks for Florence and Troutdale, so if they are approved those work programs will be complete. The department received no objections to any of the submittals.

Department staff has been discussing the prospect of entering periodic review with a number of jurisdictions. As staff briefed the commission in July 2014, the level of interest among cities in entering periodic review informs the grant allocation process described under “General Fund

Grants Program” above. The department is finding that there is some interest among a group of cities to begin the process during the 2015-2017 biennium.

Regional activities: In the Central Region, the DLCD regional representative, with assistance and input from department specialists, provides technical assistance to local communities on a wide variety local planning projects. Currently of note:

- In September 2014, the Department of Defense announced that [Red Rock Biofuels](#) had been awarded a \$70 million grant (matched by private investment for a total project cost of \$140 million) to construct a biofuels refinery in Lakeview. The project is estimated to generate 25 full-time jobs at the refinery, 50 to 55 jobs in the forest for delivering biomass, and 200 and 250 short-term construction jobs. The project will also extend natural gas from the Ruby Pipeline, approximately three miles south of town, with capacity to serve additional development in Lakeview. The site selected by Red Rock is located immediately south of the existing UGB. The use was conditionally approved by the county; however, in order to meet Red Rock’s desire to connect to city sewer and the enterprise zone agreement which required annexation into the city, the site will need to be brought into the Lakeview UGB. DLCD staff has been working closely with Red Rock, Lakeview, Lake County, and the Regional Solutions Team since January 2014 to develop a strategy to amend the UGB to include this site.
- Several cities in the region are investigating or actively pursuing UGB amendments, mostly to add employment land or otherwise assist economic development efforts. See agenda item 4 regarding the Bend UGB.
- DLCD awarded a 2013-2015 Technical Assistance grant to the Port of The Dalles as one of the partners contributing to a local wetland planning inventory (LWPI) and mitigation plan. This will remove a significant barrier to development in the port by substantially streamlining the permitting phase for new development in the port. It will significantly reduce the time and uncertainty businesses face when they consider developing in the port and will achieve a dual outcome of advancing the local and regional economy while protecting valuable wetlands. The \$10,000 Technical Assistance grant represents the final dollars required for the \$90,000 project, which has also received funding from Port of The Dalles, City of The Dalles, Department of State Lands, the Oregon Investment Board, and private landowners that will directly benefit from this work.
- DLCD also awarded a 2013-2015 Technical Assistance grant to the City of Hood River. The \$30,000 grant, matched by \$25,000 in local funds, will fund a residential buildable lands inventory and a housing needs analysis. The city is facing a severe shortage of affordable workforce housing, in part due to a high number of second homes and vacation rentals. Considering its location in the Columbia River Gorge National Scenic Area and proximity to prime orchard lands, expanding the city’s UGB to meet its need is complicated. This project will help the city identify strategies to provide affordable workforce housing within the existing UGB through incentives and efficiency measures. This is a Regional Solutions Team priority project.

Regional representatives provide guidance regarding procedural and substantive planning requirements for these projects, participate in technical advisory committees, coordinate with the department and other state agency staff to provide assistance as necessary, and keep the Regional Solutions Team apprised of important developments.

F. NEW STAFF AND PROMOTIONS

Evan Manvel will join us March 9 as a Land Use and Transportation Planner. Evan has worked for two bicycle organizations (Bicycle Transportation Alliance and Cascade Bicycle Club) and several other non-profits (1000 Friends of Oregon, Oregon League of Conservation Voters and Solar Oregon). He has a Master's degree in Public Policy and Urban Planning from the JFK School of Government at Harvard University. He loves backpacking, board games, and Oregon beer. He and his wife, Lillie, have a one year old daughter, Beasley, and a fourteen year old cat, Arthur.

Cody Meyer will join us March 23 as a Land Use and Transportation Planner. Cody comes to us from the Association of Monterey Bay Area Governments (AMBAG), where he has been a planner and transportation modeler. He has also worked for the National Institute for Transportation and Communities doing research on livability and transit performance measurement, and for Trillium Solutions developing transit databases. He has a Master's degree in Community and Regional Planning from the U of O and a certificate in GIS from Portland State University.

III. LCDC POLICY AND RULEMAKING UPDATES

Measure 49 Transfer of Development Rights: See agenda item 7.

Primary Processing of Forest Products: See agenda item 8.



Oregon

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February 3, 2015

TO: Honorable Peter Courtney, Senate President
Honorable Tina Kotek, House Speaker

FROM: Jim Rue, Director

SUBJECT: Local Government Legislative Land Use Decisions

SUMMARY

The Department of Land Conservation and Development (department) was directed through instructions in its 2013-2015 budget (not as a budget note) to convene a work group to discuss improvements to land use processes related to public notice and involvement and conduct of land use hearings. The department assembled the group and it met during 2014. *The work group does not recommend any legislative action to amend existing statutes or create new law.*

DISCUSSION

The 2013-2015 department budget included the following narrative:

The Subcommittee on Natural Resources recommended to the Joint Committee on Ways and Means that the Department of Land Conservation and Development work with interested parties to develop recommendations for improving the processes through which local governments develop post-acknowledgement plan amendments under ORS 197.610 through 197.625. The issues to be addressed shall include, but will not be limited to: public notice of post-acknowledgement plan amendments, public review of amendments and changes to these amendments, conduct of hearings on legislative land use decisions, including applicable criteria.

These issues of notice and conduct of local legislative land use hearings arose out of a conversation during the 77th Oregon Legislative Assembly related to limiting issues raised in appeals of “legislative” land use decisions to the Land Use Board of Appeals (LUBA). This discussion began with HB 3362 (2013), which would have amended the ORS 197.835 to extend the “raise it or waive it” standard, currently applicable to “quasi-judicial” land use decisions

made by local governments, to “legislative” land use decisions.¹ That discussion did not result in legislative action except the committee’s suggestion that the department should continue the discussion and carry it to conclusion as explained in the budget narrative above.

The department assembled a group of interested parties as recommended by the subcommittee. The group consisted of individuals representing local government, land use planning interest groups, and associations of cities and counties. The Oregon Farm Bureau was invited and agreed to participate, but calendar conflicts prevented the attendance of the bureau’s representative.

The group agreed that both local governments and citizens would benefit from improved guidance on “best practices” regarding the procedures and practices that should typically occur before and during public hearings on legislative land use matters. From there, opinions diverged.

The overarching issue explored by the group concerned “legislative” land use decisions and appeals of those decisions (as opposed to “quasi-judicial” land use decisions). A party to a legislative land use decision is not required to raise particular issues of evidence, findings, or law during the local hearing in order to raise a new issue before LUBA on appeal. The history and reasons for the difference between legislative and quasi-judicial processes are discussed in a Court of Appeals decision that upheld the difference.² There have been assertions that local governments have had their legislative decisions remanded by LUBA on issues that had not been raised locally. However, after informal surveying of local governments by the League of Oregon Cities, no recent instances of this alleged problem could be identified.

Nevertheless, several group members felt the *prospect* of this occurrence was sufficient to recommend a legislative concept to prevent the possibility. A work group member, who is an attorney with public and private clients, suggested a compromise statutory amendment that would not change the existing requirements for initial consideration and appeal of a legislative land use decision, but would limit issues when the local government reconsiders the matter once it has been remanded by LUBA or an appellate court. That is, if the local government’s decision were appealed to LUBA (and to the Court of Appeals) and is remanded, the local government would have the option of limiting matters raised at the local hearing on reconsideration to only those issues on which the decision was remanded. The proposed language is attached to this report. This proposal, if enacted, would overrule aspects of established case law. This proposal received some support within the work group but also some opposition, and therefore the group did not arrive at a consensus recommendation regarding the proposed statutory amendment. In addition to this legislative concept, the work group discussed ways to improve both local governments’ public involvement processes and individual citizens’ understanding of those processes. There was little support on the work group for additional mandates to cities and

¹ “Quasi-judicial” land use decisions are generally initiated by an application from a property owner and involve application of criteria with a set of facts. Examples include a variance and zone change for a single property. “Legislative” matters are policy-related and generally affect a broad area and a large number of people. Examples would be amendments to a zoning code and adoption of a transportation plan.

² *Hatley v. Umatilla County*, 256 Or App 91.

counties regarding enhanced public notice, pre-hearing informational opportunities, or hearings processes. Instead, the group focused on better training and resources for staff and elected officials, and better guidance for the public. The group reviewed existing resources and generally agreed that the department, the League of Oregon Cities, and the Association of Oregon Counties should be the primary sources for any new educational materials and training opportunities.

Regarding next steps, the department has begun organizing an advisory group comprised of city and county planning representatives, their respective associations, and the Oregon Chapter of the American Planning Association to provide advice on training needs. In addition, the department has begun consideration of updating and improving existing resources and documents to help citizen land use participants.

cc: Honorable Chris Edwards, Chair Senate Committee on Environment and Natural Resources
Honorable Brian Clem, Chair House Committee on Rural Communities, Land Use and Water
Cathy Connolly, Chief Financial Office
Matt Stayner, Legislative Fiscal Office
Legislative Decisions Work Group members

Attachment

Proposed amendment to ORS 197.620:

(1) A decision to not adopt a legislative amendment or a new land use regulation is not appealable unless the amendment is necessary to address the requirements of a new or amended goal, rule or statute.

(2) Notwithstanding the requirements of ORS 197.830 (2) that a person have appeared before the local government orally or in writing to seek review of a land use decision, the Director of the Department of Land Conservation and Development or any other person may appeal the decision to the Land Use Board of Appeals if:

(a) The local government failed to submit all of the materials described in ORS 197.610 (3) or, if applicable, ORS 197.610 (6), and the failure to submit the materials prejudiced substantial rights of the Department of Land Conservation and Development or the person;

(b) Except as provided in subsection (3) of this section, the local government submitted the materials described in ORS 197.610 (3) or, if applicable, ORS 197.610 (6), after the deadline specified in ORS 197.610 (1) or (6) or rules of the Land Conservation and Development Commission, whichever is applicable; or

(c) The decision differs from the proposed changes submitted under ORS 197.610 to such an extent that the materials submitted under ORS 197.610 do not reasonably describe the decision.

(3) Subsection (2)(b) of this section does not authorize an appeal if the local government cures an untimely submission of materials as provided in this subsection. A local government may cure the untimely submission of materials by either:

(a) Postponing the date for the final evidentiary hearing by the greater of 10 days or the number of days by which the submission was late; or

(b) Holding the evidentiary record open for an additional period of time equal to 10 days or the number of days by which the submission was late, whichever is greater. Additionally, the local government shall provide notice of the postponement or record extension to the Department of Land Conservation and Development.

(4) Unless the local government reopens the record on a remand by the Land Use Board of Appeal of an amendment subject to ORS 197.610 to .625, the proceedings on remand shall be limited to those issues remanded by the Board.