



# **LANE COUNTY CHARTER REVIEW COMMITTEE**

## **REPORT TO THE BOARD OF COMMISSIONERS**

**Lane County**

**June 30, 2011**

# COMMITTEE MEMBERS

**Chuck Spies – Chairman**

Commissioner Stewart – Appointee

**Alan Lieman**

Commissioner Sorenson – Appointee

**Ken Tollenaar**

Commissioner Handy – Appointee

**Shaylor Scalf**

Commissioner Bozievich – Appointee

**Mike Tayloe**

Commissioner Leiken – Appointee

**Kristy Cooper**

At Large

**Douglas Bakke**

At Large

# EXECUTIVE SUMMARY

**The Lane County Charter Review Committee** was established pursuant to the Lane County Charter, Section 38 to review the current charter and report back to the Board of County Commissioners no later than July 1, 2011.

The initial committee of five members appointed by each of the County Commissioners first met on January 27, 2011. At meetings in February and March, the five initial Committee members advertised for other interested citizens to apply for the two at-large positions and recommended at-large appointments to the Board. Also during this initial period, the initial Committee developed and recommended the Board approve Bylaws for the Charter Review Committee. The two at-large members were appointed and the Bylaws were approved by the Board of Commissioners in early March.

At the same time the Committee was dealing with administrative matters, it was also soliciting inputs to its review process from County Staff and the general public. The Committee received minimal input from either staff or the general public. County Staff did not identify any Charter provision which was not working or was adversely limiting administrative options. The only input from the general public was to go from a five member Board to a three member Board. In addition to inputs from staff and the public, each Committee member raised issues to consider in the Committee's review of the Charter.

The Committee reviewed those Charter provisions in which some issue was raised at meetings in March-May. The Committee, in its review, considered the following questions:

- Are current Charter provisions consistent with current State constitutional and statutory requirements?
- Would current Charter provisions be more appropriately adopted by Ordinance?
- Do current Charter provisions unreasonably limit options for streamlining governmental functions and minimizing costs?
- Could amendments to current Charter provisions or proposed new provisions provide for improved governance?
- Is it broken?

The one question that the Committee did not consider during its review was whether or not a specific amendment would be supported by voters.

The Committee's report consists of Issue Papers written on each of the issues discussed during the review of the Charter. Those which are strictly housekeeping in nature and apply to various sections throughout the Charter are considered together in Issue Paper #1. All other issues considered by the Committee pertain to separate sections and have separate Issue Papers numbered 2 through 22 and have separate recommendations. Committee recommendations relating to these issues fall into the following four categories.

1. **Charter amendments recommended for placement before voters.** These are issues which the Committee recommends that ballot measure be developed. Votes on the decision are unanimous unless indicated otherwise. They are as follows:
  - a. Issue #1, Various Housekeeping Amendments.
  - b. Issue #3, Repeal of Section 8.
  - c. Issue #6, Section 17, to require a majority vote of incumbent Board members.
  - d. Issue #7a, Section 18, to decrease days between ordinance reading from 13 to 6.
  - e. Issue #11, Section 23 (3), District Residing Requirements (4 – 3 vote)
  - f. Issue #16, Repeal Sections 31 and 32, amend Section 11(3)(b).
  - g. Issue #20, Repeal Section 37, Income Tax Cap
  
2. **Issues which are recommended not to be pursued further.** These are issues which the Committee considered and decided not to recommend a Charter amendment. Votes on the decision are unanimous unless indicated otherwise. They are as follows:
  - a. Issue #4, Section 11(1), Number of Commission Positions.
  - b. Issue #5, Section 15, Two year term for Board Chair (4 – 2 vote).
  - c. Issue #7b, Section 18, to change effective date from for non-emergency ordinances from 30 days to 90 days.
  - d. Issue #8, to adopt a new section requiring appointment of a County Administrator.
  - e. Issue #9, Section 20, to change elected Sheriff and Assessor to appointed positions.
  - f. Issue #10, Section 22, to delete requirement for elected official's approval.
  - g. Issue #15, Section 28, Consideration of Instant Run-off Voting.
  - h. Issue#17, Repeal Section 34, Effective Dates of Charter Amendments.
  - i. Issue #18, Section 18, Spending Limitations.
  - j. Issue #21, Section 38, Charter Review Committee.
  
3. **Issues for which the Committee felt it needed more information before making a recommendation.** These issues need more discussion with the Board,

stakeholders and the general public before the Committee felt it could make a recommendation. They are as follows:

- a. Issue #2, Section 7, Local Services.
- b. Issue #12, New Section 23(4), Qualifications for Elected Administrative Officers.
- c. Issue #13, Section 26, Compensation for Services, Board of Commissioners.
- d. Issue #14, Section 27, Merit System.
- e. Issue #19, Section 36, East Alton Baker Park.
- f. Issue #22, New Section 38, Prohibitions related to Agenda 21: The UN Program of Action from the Rio Summit (5 – 1 vote).

It should be noted the because of a Charter established deadline of July 1, 2011 for submittal of this Report, there has been no opportunity for public input regarding any of the recommendations contained in this Report prior to publishing the Report.

# OVERALL RECOMMENDATION

**The Committee recommends** that County legal staff be directed to develop one or more ballot measures to refer proposed Charter Amendments identified in Paragraph 1 above to the voters.

The Committee believes that additional public discussion and/or more information regarding those issues identified in paragraph 3 is warranted. The Committee stands ready to extend its term to further review and ultimately make recommendations regarding any or all of those issues if so directed by the Board of Commissioners.

# 2011 Charter Review Committee

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# Issue Paper #1

## Proposed House Keeping Amendments, Various Sections

### Section 5: General grant of powers.

**Issue:** Whether to change the second word “or” to “and.”

**Background:** Authority over matters of county concern is “granted or allowed” to home rule counties by both the federal and state governments. Therefore the conjunctive “and” is more appropriate than the disjunctive “or” in this section.

**Discussion:** The Committee agreed unanimously to approve this clarification.

**Recommendation:** Delete the second word “or” in section 5 and insert the word “and” in its place.

### Section 6: Construction of powers.

**Issue:** Whether to change the first word “and” in the second sentence to “or”.

**Background:** Use of the conjunctive “and” implies that the “limits” to liberal construction must be “imposed” by both the charter and federal and state law. Actually, the “limits” might be imposed by either the charter or state or federal law. The disjunctive “or” is therefore more appropriate.

**Discussion:** The Committee agreed unanimously to approve this clarification.

**Recommendation:** Delete the first word “and” in the second sentence in section 6 and insert the word “or” in its place.

### Section 9: Public improvements.

**Issue:** Whether to substitute the term “local improvements” for the term “public improvements” throughout this section.

**Background:** The term “public improvements” is vague and could be applied to improvements such as county buildings, bridges, arterial roads and other facilities that are of general benefit to the county as a whole. Section 9 deals with what usually are referred to as “local improvements” such as residential streets, drainage facilities, and sewerage collection, part or all of the cost of which is assessed to abutting or other specially benefited property.

**Discussion:** The Committee agreed that the term “local improvements” is more appropriate than “public improvements” in section 9, and retaining the term “public improvements” could conceivably lead to future legal challenges. The county has used this section and related statutes to finance some facilities in the past.

**Options:** Section 9 could be retained in the charter as is, since the county has experienced no difficulty with the term “public improvements.”

**Recommendation:** Delete the term “public improvements” and insert the term “local improvements” throughout this section.

## **Section 11: Membership, election and tenure**

**Issue:** Whether to change the cross reference in subsection (3) (a) from Section 32 to Section 28

**Background:** The cross reference to Section 32 is an apparent error. Section 32 is a now-obsolete transition provision regarding continuation of terms affected by the original 1962 charter. Section 28 deals with the nomination and election of county officers.

**Recommendation:** Delete “32” and insert “28”.

## **Section 18: Ordinances**

**Issue:** Whether subsection (1) should be expanded by adding a sentence stating what the enacting clause should be for an ordinance enacted by the voters by initiative or referral.

**Background:** Subsection (1) provides an enacting clause for ordinances enacted by the Board but not for ordinances enacted by the voters. The model county charter suggests “In case of adoption or ratification by the voters of the county, ‘The People of (Lane) County ordain as follows:’ “

**Recommendation:** Ask county counsel to draft an amendment to subsection (1) providing an enacting clause for measures enacted by the voters.

## **Sections 19 and 22: Administrative Departments and Changes in Administrative Departments**

**Issue:** Whether to change the word “Departments” in these section titles to the word “Functions”

**Background:** In November 2010 the voters amended the charter to give the Board of County Commissioners greater flexibility with respect to county government organization. The titles of two of the affected charter provisions were not changed at that time.

**Options:** Leave the titles as is. (The section titles themselves have no legal effect. This change is merely for clarification)

**Recommendation:** Change the titles.

## **Section 20: Elective Administrative Officers**

**Issue:** Whether to change the word “department” in subsection (2) of this section to “function”

**Background:** See Sections 19 and 22 above

**Options** Leave subsection (2) as is

**Recommendation:** make the changes to subsection (2)

## **Section 28: Nomination and Election of County Officers**

**Issue:** Whether to delete the phrase “desiring to vote” in subsection (3) of this section

**Background:** This phrase was in the original 1962 charter. It would obviously be impossible to determine which registered voters “desire to vote” before an election.

**Options:** The entire subsection (3) could be repealed, since distribution of ballots is governed by state election law.

**Recommendation:** Delete the phrase “desiring to vote.”

## **Section 33: Existing Legislation Continued**

**Issue:** Whether to delete the phrase “as at present” from subsection (2) of this section

**Background:** This phrase had meaning only in 1962 when the charter was adopted.

**Options:** Leave the phrase in subsection (2)

**Recommendation:** Delete the phrase “as at present”.

# Issue Paper #2

## Section 7, Local Services

**Issue:** Chapter II, Section 7 of the Lane County Charter entitled “Local Services” (hereinafter “Section 7”) provides a mechanism whereby with voter approval the board of commissioners may establish “local service districts” for the purpose of providing a county service to a portion of the county without making the entire county pay for the service. Oregon Revised Statutes Chapter 451 provides a statutory scheme for the creation of County Service Districts (CSD’s). CSD’s, created under ORS Chapter 451 are similar to the Section 7 local service districts in that both provide a mechanism to tax the beneficiaries of the service without taxing the whole county.

**Question Presented:** Should Lane County retain Section 7 in the Lane County Charter given the availability of CSD’s under ORS Chapter 451?

**Background:** Lane County CRC member Ken Tollenaar provided some useful background information. Section 7 was included in the original Lane County Charter adopted in 1962. According to Mr. Tollenaar, in 1962 ORS Chapter 451 allowed only for the creation of CSD’s for sewage collection and disposal. It is likely that the drafters of the Lane County Charter wanted the county to have the authority to provide more than just a single service through the CSD mechanism. Since 1962, ORS Chapter 451 has been amended many times, and now provides for 27 types of services that can be funded through the creation of a CSD.

**Discussion:** The CRC engaged in a discussion of the advantages and disadvantages of keeping Section 7 in the Lane County Charter. County Counsel, Mr. Vorhes was present for a portion of the discussion. The following points were raised during the discussion:

### Advantages to Retaining Section 7 in Lane County Charter

- Section 7 allows for more flexibility in terms of the types of services that can be funded since it is not limited to the services specified in Chap. 451. Despite the expanded list of services in Chap. 451, the county may at sometime in the future want to provide a service that is not on the list.
- Section 7 local service districts are formed and administered by ordinances passed by the Lane County Commission. The statutory scheme provided by ORS Chap. 451 is complex. In theory, a Section 7 local district should be easier to establish and administer than a CSD formed pursuant to Chap. 451.

### Advantages to Removing Section 7 from the Lane County Charter

- As far as your author can determine, Lane County has never used Section 7 to create a local service district. Instead, the county has relied on Chap. 451 to create CSD’s. If Section 7 has not been used in 49 years does it belong in the Charter?

- There is an unsettled legal question concerning whether the board of commissioners, after establishing a local service district pursuant to Section 7, could constitutionally establish a permanent tax rate for the local service district. The issue arises because under state law Lane County is a local taxing district. If a Section 7 local service district were not accorded status as a separate local taxing district, Article XI, Section 11 could prevent the county from imposing an additional permanent tax rate on the local service district. There would be no point in using Section 7 if the county could not establish a tax rate.

**Recommendation:** The CRC recognizes the value of the flexibility and control that Section 7 affords the county in the process of creating a service district. The committee also recognizes that Section 7 has no value if the legal landscape has overtaken this original charter provision such that a local service district established under Section 7 could not impose a tax upon the district. Because the answer to the legal question is speculative and beyond the scope of the CRC's work, the CRC wishes to bring the matter to the attention of the Board of Commissioners but makes no recommendation as to whether Section 7 should stay or go.

# Issue Paper #3

## Section 8, Intergovernmental Cooperation and Transfer of Functions

**Issue:** Whether to retain this section or delete it.

**Background:** This section purports to authorize the county to perform functions in cooperation with other local governments and to transfer county functions to and assume functions of other local governments. Since these actions by definition involve extramural relations and county home rule extends only to intramural activity, state statutes are needed to provide this authority. ORS 190.003 – 190.265 provides ample authority for these activities, and section 8 is not necessary.

**Discussion:** Although section 8 could be retained in the charter, in the interest of keeping the charter as short and simple as possible the Committee agreed unanimously to repeal this section.

**Options:** The option would be to retain section 8, since it does no harm and the county must in any event rely on ORS 190.003 – 190.265 to authorize its intergovernmental dealings.

**Recommendation:** Repeal section 8.

# Issue Paper #4

## Section 11 (1), Changing Number of Commission Positions

**Issue:** Should the number of Commission Positions be changed from five to three.

**Background:** The current Charter establishes a five member Board of Commissioners. Some other counties, including some larger counties govern with the three member Board of Commissioners.

**Discussion:** This issue was raised by a citizen in a presentation to the Committee. It was argued that such a change would save the County money, reduce the size of government at the top, and insure transparency because any meeting of two members of a three member board, no matter what the purpose or venue, would have to be considered a public meeting and treated as such. The Committee considered this position and the pros and cons of going to a three member Board. The Committee generally felt that it would not be in best interests of the general public to actually preclude any contact between two commissioners outside of publicly noticed meetings and recognized that informal communications between members of the Board outside of public meetings was important for a collaborative and cooperative governing process. Committee members discussed issues which had arisen in Marion County, which has a three member Board, from time to time. It was also felt that having a five member Board afforded all citizens better access to their Board representative and better representation in general and that those benefits outweighed possible cost savings which might be realized with two fewer paid Commission positions.

**Recommendation:** The Committee does not recommend reducing the number of Commissioners from five to three.

## Associated Attachment

**Attachment 1:** Written Statement from Scott Rohter, dated February 2011

# Issue Paper #5

## Section 15, Board Chair

**Issue:** Section 15 Provides parameters for the office of Board Chair.

- (1) Delineates the first meeting of the year to be when they designate a chair for the board and specifies that position to last 1 year.
- (2) Cites the duties of the chair
- (3) Allows for a vice chair position to be designated at the same meeting that the chair position is designated, and further describes the duties and guidelines of the vice chair position.

**Question presented:** Should the Board Chair position be extended to a two year term?

**Discussion:** The pros: which would be that the chair position hardly has time in one year to accomplish anything of substance and two years would allow for smoother service so every year isn't a new beginning. The Cons: the charter doesn't say that a person can't be elected to serve a second year, and that maybe there should be some limiting language as to how many consecutive terms that a chair and vice chair may serve. They also discussed that in the event that the chair is performing their duties less than satisfactorily then in the first meeting of the next year that situation can be remedied.

It was also discussed that in past years there were some beliefs that the chair position was a rotating position. The review committee felt that this was not the case, and could find nothing in the charter to reflect that the board chair should be a rotating position.

**Committee Recommendation:** The Committee is not recommending amending the Charter to extend the Board Chair position to a two year term by a four to two vote.



# Issue Paper #6

## Section 17, Vote Necessary for Board Action

**Issue:** Section 17 requires “concurrence by three members” to decide any issue. In the event that two Board positions become vacant at the same time, a unanimous decision of the incumbent Board would be required.

**Discussion:** The Committee’s primary concern was that in the event of there being two vacancies on the Board at the same time, Board actions could not be taken without a unanimous decision of the three remaining Board members. While this circumstance would not occur often and would probably be of a short duration, requiring a unanimous decision of the remaining Board members might make it difficult to conduct business or even decide the appointment of a replacement Board member. This change would have no effect on decisions made by a four or five member Board. The Committee was unanimous in its recommendation that the language in Section 17 be changed to “..., the concurrence of a majority of the incumbent members...”

**Options:** The only option would be to make no change.

**Recommendation:** Consider a Charter amendment to Section 17 to make the vote necessary for Board action to be the concurrence of a majority of the incumbent members of the Board of Commissioners.

# Issue Paper #7

## Section 18, Ordinances

**Issue:** The following three issues were discussed regarding Section 18:

- a. Paragraph (1): An enacting clause for voter enacted ordinances needs to be added. This issue is discussed in Issue Paper #1, the Housekeeping recommendation.
- b. Paragraph (2): Given the fact that the Board regularly meets twice a week and with the advent of electronic dissemination of public information regarding actions before the Board, the issue of timing between readings of an ordinance might unreasonably delay the ordinance adoption process.
- c. Paragraph (4): The issue was raised that the State Constitution recently changed to require that petitioners for referendums must now have 90 days to collect signatures on referendum petitions for County ordinances instead of the 30 days previously allowed.

### Discussion:

- a. Paragraph (2): Given the Board's regular meeting schedule, it was felt that the requirement that there be 13 days between readings of an ordinance was somewhat excessive and unreasonably delays the adoption process. This requirement might have been appropriate to provide adequate time for public review and comment on proposed ordinances when this particular charter language was adopted, in today's electronic communication environment, access to public documents is almost instantaneous. Given that fact, the Committee's discussion centered on what would be a reasonable period between reading of an ordinance and resulted in a unanimous conclusion that by requiring 6 days between reading, the Board was restricted from reading an ordinance twice within the same week, but would be able to go from first to second reading within two consecutive weeks. It was felt that this change should be coupled with a requirement to make the ordinance available on the County's website to insure the widest possible and most timely public access to the proposed ordinance.
- b. Paragraph (4): The Committee considered the new State Constitutional requirements for counties to allow 90 days to collect signatures referring any action of the Board. The current 30 day period required for a non-emergency ordinance to take effect was established under the earlier state requirement. Given the fact that very few ordinances are ever referred to voters by petition, the Committee was concerned that changing the charter to reflect the new 90 day requirements would unreasonably impact the Board's ability to enact new ordinances in a timely manner. It was felt that the Board probably got a pretty good idea regarding controversial aspects of any

proposed ordinance as a result of public comments and if they felt that there was a possibility of a referral, the Board could take action to refer the ordinance themselves or establish a later effective date to allow time for a referral petition. The Committee unanimously recommended that there be no change to the 30 day effective date for non-emergency ordinances.

### **Options:**

- a. For Section 18 (2), an option would be to make no changes in which case the minimum time between reading would remain 13 days and there would be no Charter language requiring that proposed ordinances be placed on the County website.
- b. For Section 18(4), the Charter could be amended to incorporate a 90 day effective date to insure that all non-emergency ordinances would not be effective until after the statutory period allowed for referral.

### **Recommendation:**

- a. For Section 18(2), the Committee recommends that the Board consider a Charter amendment to decrease the number of days between readings of an ordinance from 13 to 6 and to add a requirement for the ordinance to be posted on the County website in Section 18(2)(b).
- b. For Section 18(4) the Committee does not recommend an amendment to reflect new statutory language providing for a 90 day referral period.

# Issue Paper #8

## Proposed New Section, Requiring Appointment of County Administrator

**Issue:** Whether to add a new charter section requiring the Board of County Commissioners (BCC) to maintain the position of county administrator

**Background:** Except for a relatively few counties that have elected executives, county governing bodies generally exercise both legislative and administrative powers and functions, but they commonly delegate some of their administrative powers and functions to subordinate employees. In recent years many if not most counties in Oregon have established positions of county manager or county administrator.

The powers and duties of the manager or administrator vary widely. Some are vested with broad authority to appoint and terminate subordinate employees, prepare an executive budget for review and adoption by the governing body, recommend policies for consideration by the governing body, and perform other activities of a chief administrative officer. Others operate with a lesser scope of authority with respect to personnel appointments, budgeting, policy analysis, etc.

Some of these positions are established by charter provision, others by ordinance, and still others merely by a line item in the county budget. County manager positions are most frequently established by charter, while most county administrator positions are established by ordinance.

Lane County has had a position of county administrator for many years, but the charter has never required it. The position is established by ordinance (section 2.110 of the Lane Code), which also spells out the powers and duties of the position. The administrator serves as county budget officer; coordinates and directs county departments; appoints, supervises, disciplines and terminates appointive county department heads (but must advise the BCC of the cause and process of any department head appointment or dismissal); develops internal management systems and procedures; enforces BCC orders, policies, etc.; serves as clerk of the BCC, develops and maintains the Lane Manual (a compilation of internal administrative rules and procedures); and performs other duties as the BCC directs.

The BCC can expand or contract the duties prescribed by LC 2.110 at any time and can even abolish the position by amending or repealing the ordinance. In fact, the position was abolished in 1977 when Jerry Rust and Archie Weinstein were elected to the then-three member BCC. County department heads reported directly to the BCC and the scope of the administrator's duties was reduced substantially. This situation was eventually reversed and the county administrator position was restored.

If the Lane County charter were amended to require a county administrator position, key provisions might include:

- A requirement that the BCC appoint a county administrator to serve at its pleasure and to fill any vacancy in the position;
- Selection of an administrator to be on the basis of professional education and experience without regard to political affiliation;
- Candidates need not be county residents when appointed but must assume residence within a reasonable time;
- Duties and responsibilities include:
  - Serving as chief administrator of the county;
  - Appointing, supervising, disciplining and terminating department heads and subordinate personnel;
  - Serving as budget officer; and
  - Performing other duties as the BCC directs.

**Discussion:** Committee discussion identified the following pros and cons of this proposal.

If adopted, the county administrator position would become a key permanent feature of Lane County government. The BCC could expand on the duties required by charter but could not contract them or abolish the position without a vote of the people. Professionalism in the position would be assured and the position would be insulated from political pressure. The chain of command would be clear: department heads and staff would know who their boss is and there would be a line of accountability from employees to department heads to county administrator to the Board of County Commissioners to the people of the county.

On the other hand the county commissioners would enjoy less administrative flexibility than they now possess. Residents of the county (particularly in rural areas) are accustomed to having a close and often personal relationship with their county commissioners. They are likely to perceive a charter-prescribed professional administrator as an impediment to that relationship, even though the position has been established and functioning for many years as a creature of ordinance, rather than charter. Similarly, department heads who have close working relationships with individual commissioners may see an administrator with charter status as a threat to their autonomy.

**Options:** The first option would be to leave the situation as is: maintain the position of county administrator as a creature of ordinance, leaving it up to the BCC to delegate all, some, or none of its administrative functions and powers to the administrator, and even to abolish the position entirely. A second option would be to adopt a minimal charter provision, leaving it entirely up to the BCC to define the position's duties and responsibilities. A third option might be to adopt an extensive charter provision, spelling out in some detail the duties and responsibilities.

**Recommendation:** The Committee does not recommend adoption of this new Section to require appointment of a County Administrator.

# Issue Paper #9

## Section 20, Elective Administrative Officers

**Issue:** Should the Sheriff and/or the Assessor be appointed rather than elected as provided in Section 20.

**Discussion:** This issue was raised primarily over a concern regarding accountability where the elected official is accountable for a particular government function, but does not control that function's funding. There was also a concern over the working relationship and possible conflicts between the elected Board and an elected manager of a government function. Finally, there was some concern regarding qualifications for election versus qualifications which would be sought through a competitive appointment process.

The CRC interviewed Sheriff Turner and Assessor Spickard. Both officials stressed the independence factor as being an important consideration. Assessor Spickard advised the CRC that most of her duties are controlled by state law, including qualifications for office. As a result, she felt it would be difficult to politicize the office if it was appointed and she might prefer not to have to run for re-election, but overall the existing process works. She provided a follow-up email summarizing her discussion with the Committee.

Sheriff Turner provided an executive summary supporting election of the sheriff. He stressed the qualifications for office could be substantially more stringent. During Q & A with the CRC, the Sheriff made a good case for not making any changes to the existing structure other than qualifications for office.

**Recommendation:** The Committee does not recommend a Charter amendment to change the Sheriff and/or Assessor to an appointed position. The Committee did feel there was merit in looking further at qualifications of elected officers. See Issue #12 for a discussion on that matter.

## Associated Attachments

**Attachment 2:** Email from Anette Spickard, County Assessor, dated April 21, 2011

**Attachment 3:** Document Titled "Elected Office of the Sheriff" submitted by Sheriff Turner

# Issue Paper #10

## Section 22, Changes in Administrative Departments

**Issue:** The issue with this section is the inability to combine, change or abolish county functions managed by the elected Sheriff and Assessor without their approval or voter approval, which might limit the Board's ability to provide the most cost efficient and effective organizational structure.

**Discussion:** This issue was discussed with both the Assessor and Sheriff. Both explained that the majority of their respective functions were established by State statute and/or controlled to some extent by State agencies. Both expressed the opinion that reorganization of administrative functions to add or delete functions not specifically required by the State had occurred in the past through negotiations with the Board. Both also expressed an interest in retaining the current language as long as their positions were accountable to voters for those rare instances that the Board might wish to add or delete areas of responsibility in which they and the Board could not come to agreement on. The Committee felt that both the Assessor and Sheriff made a compelling argument for not changing the language especially given that if the Board felt a compelling need to make changes and could not successfully negotiate with the elected department heads, the matter could be referred to the voters.

**Recommendation:** The Committee recommends no further action on this issue.

**Note:** A housekeeping recommendation is being proposed to change the title of this Section to reflect an earlier amendment which changed "departments" to "functions" in the Charter language.

# Issue Paper #11

## Section 23 (3), District Residing Requirements

**Issue:** Chapter V section 23 (3) provides the qualifications to qualify for the position of County Commissioner, a person shall reside within the district from which said person is elected or appointed and shall have so resided for a period of not less than two months prior to appointment or any primary or general election in which said person is a candidate.

**Question Presented:** Is the two month requirement a long enough period for a candidate to have an objective, knowledgeable and fair view on the issues that need to be addressed for the voters of the district?

**Discussion:** The Committee engaged in a discussion if it was fair to the voters of a particular District to have a candidate move into a County District from another District and not have a real pulse on current issues of that District after only residing in that District for a period of two months. Some Committee members felt that District residency should be increased to at least one year to insure that those elected to represent the District had a full understanding and vested interest in issues which may be of particular interest in the District and not to have moved into the District solely to take advantage of a District Commissioner position that may be more competitive than the one where they normally resided.

**Committee Recommendation:** The Committee recommends a Charter amendment to require District candidates to have resided in the district for one year instead of the current two months (vote was 4 to 3 in favor of recommendation).



# Issue Paper #12

## Section 23 (4) Added, Qualifications for Elected Administrative Officers

**Issue:** There are no specific qualifications for the elected positions of Sheriff or Assessor other than those for any elected County position and those required by the State. State required qualifications relate primarily to job knowledge and not to management experience or capability.

**Discussion:** The Committee expressed concern that candidates for the position of Sheriff or Assessor may meet those minimum qualifications required by the State, but not have the educational background and/or managerial experience to effectively manage the County functions for which they would be responsible. It was generally felt that the Charter needed to include additional education and management qualifications in addition to the minimum qualifications established by the State. Such qualifications would need to be discussed in more detail with the incumbents and associated professional organizations to determine what might be appropriate to consider in addition those required by the State.

**Recommendation:** The Committee does not have enough information to make a recommendation in this matter, but believes it needs to be further studied.

# Issue Paper #13

## Section 26, Compensation for Services, Board of Commissioners

**Issue:** Section 26 provides that the Board of County Commissioners is responsible for setting the compensation of the Commissioners. During the charter review process, the CRC was informed that Commissioners have on occasion expressed discomfort with this practice.

**Discussion:** The CRC discussed possible changes to the Charter that would place responsibility for setting Commissioner compensation somewhere other than with the Commissioners themselves. One option discussed was the establishment of an Elected Official Compensation Board similar to the Public Official Compensation Commission that sets pay for elected state officials. The CRC also discussed the concept of establishing a base rate of compensation and a formula for adjusting that base rate into the future.

**Options:** If the Board of County Commissioners is interested in relieving itself of the responsibility for setting its own compensation there are options, including the two set forth above.

**Recommendation:** If the Board of Commissioners would like to further consider its options in this regard, further study of available options would be recommended prior to determining how Section 26 of the Lane County Charter would best be amended to achieve the desired result.

# Issue Paper #14

## Section 27, Merit System

**Issue:** The primary issue on this section was whether it unreasonably ties the Board's hands in its management of the personnel function of the government by having such a detailed and specific Charter language.

**Discussion:** While the Committee generally felt that the requirements contained in the current language was more specific than might be needed, there were no inputs or other information provided to the Committee indicating that the current language created any problems in administering the County's personnel program. The Committee also did not have any information regarding why this specific language was adopted in the first place or the position of bargaining units on the current language. If this section was to be changed, it was the general consensus of the Committee that the current language be changed to something very general in nature requiring that appropriate personnel policies related to a Merit System, including employee classification and personnel administration, be established by Ordinance. The Committee felt that before any decision regarding changing this section was considered further, that more information and input was needed from staff and employee representatives.

**Recommendation:** Since a Charter is intended to provide general policy related to governance and administration, this Section probably goes into more detail than necessary related to setting up a personnel administration function. However, the Committee does not have enough information to make a specific recommendation at this time, but would be willing to study the issue further if the Board felt it necessary

# Issue Paper #15

## Section 28, Consideration of Instant Run-off Voting

**Issue:** Should the County consider Instant Run-off Voting (IRV) utilizing only the general election ballot instead of utilizing the primary election ballot for a preliminary election and the general election ballot for a run-off.

**Discussion:** The Committee considered the issue of going to an IRV election method for County elective offices instead of the current two step method of primary and general election balloting. IRV is a voting method in which voters may identify their first, second and possibly third choice on the same ballot. It is primarily of value when there are more than two candidates for any single elected position. When no candidate receives a majority of the votes after the first count, the candidate receiving the fewest votes is removed and the votes are again counted using the second choice of those whose first choice had been removed. This process goes on until one candidate eventually receives a majority of the votes.

The pros to IRV balloting were the fact that the matter would be decided on a single ballot at the General Election which might decrease the cost for a second election and would certainly decrease the campaign period and associated campaign costs. IRV also eliminates the factor of a spoiler third candidate in what would otherwise be a two candidate race. Finally, IRV eliminates the “voter’s dilemma” of the perceived need to forgo a vote for the voter’s most preferred candidate in order to vote for a less preferred candidate who has a better chance of defeating the voter’s least preferred candidate.

In addition to the initial costs to set up the IRV vote counting process, the biggest drawback that the Committee saw was the immense voter education effort which would be needed and the resistance of voters in general to such changes in the way voting was done. This was enforced by the fact that no other jurisdiction in the State had adopted IRV voting and the fact that the City of Eugene had placed the issue on the ballot once and it had been soundly defeated.

**Recommendation:** The Committee is not recommending that Instant Run-off Voting be considered further.

## Associated Attachment

**Attachment 4:** Document titled “What is Instant Runoff Voting (IRV)?”

# Issue Paper #16

## Repeal Section 31 and 32

### Move Commissioner Election Dates to Section 11 (3)(b)

**Issue:** Sections 31 and 32 are primarily continuation provisions for initial adoption of the Charter, and except for the language which establishes the election dates for Commissioner positions, these sections are no longer applicable in the Charter.

**Discussion:** Committee members felt that both these sections could be repealed if language was adopted elsewhere in the Charter specifying election dates for Commission positions. The Committee felt that this could be accomplished by an amendment to add the following language to Section 11, Paragraph (3) (b): “Commission Positions No 3 and 4 shall be elected at the November general election of presidential election years and Commission Positions No 1, 2 and 5 shall be elected at the November general election of non-presidential election years.” It was felt that the use of term presidential and non-presidential election years to describe the election year made it much easier to determine than counting forward at 4 year intervals from the currently identified implementation years.

**Recommendation:** The Committee recommends repeal of Sections 31 and 32 together with the proposed amendment to Section 11, Paragraph (3)(b).

# Issue Paper #17

## Section 34, Effective Dates of Various Charter Amendments

**Issue:** Is Section 34 needed or can it be repealed.

**Discussion:** After reviewing the listing of amendment effective dates it was found that most if not all listed amendments established dates other than the date on which voters approved the amendment and as such needed to remain for their historical value and to determine with more certainty whether or not a past action was taken before or after an amendment became effective, especially for those amendments with specific effective dates.

**Recommendation:** The Committee recommends no amendment be made to Section 34.

# Issue Paper #18

## Section 35, Spending Limitation

**Issue:** Is a limitation on general fund spending based on 1985 base levels and adjusted for population and cost-of-living changes still relevant post measures 47/50?

**Background:** In 1985, Lane County voters imposed a property tax/spending limitation. The limitation on spending includes limitation on fund balances of the revenue stabilization fund; the employee benefit fund; the capital improvement fund and the self insurance fund.

**Discussion:** Whatever the financial situation in 1985, conditions have changed. We have measures 47/50 to limit property taxes with a permanent rate of \$1.28. Timber revenue has been replaced with declining SRS funds. A review of the history as demonstrated in Attachment 5 indicates the limitation has not greatly outpaced actual spending. While remote, the possibility exists that a catch-up federal payment could force a refund of property taxes.

**Options:** 1) Do nothing and hope the limitation is never triggered; 2) Rewrite the parameters of the limitations (a complex undertaking); or 3) Repeal.

**Recommendation:** The Committee recommends repeal of Section 35.

## Associated Attachment

**Attachment 5:** General Fund Spending Limit, FY 2011-2012 Budget Financial Summary.

# Issue Paper #19

## Section 36, East Alton Baker Park

**Issue:** Since the County no longer owns or controls East Alton Baker Park, should this Section be repealed.

**Discussion:** Since this section is the only language in the Lane County Charter adopted specifically through an initiative action, the Committee was reluctant to propose any changes even though members generally felt that the majority of the specific requirements more appropriately should have been adopted by Ordinance. However, in discussing this issue, the Committee was advised that the County no longer owned or had any control over the East Alton Baker Park land which the Charter section addressed and that the only possible impact of a repeal was the impact on language in the conditions under which the land was disposed of which required the new owner to abide by the requirements of Section 36. The Committee felt that if those same assurances could be made without reference to this Charter section, that the entire section should be repealed.

**Recommendation:** The Committee felt it needs more information regarding the status of the Park, its ownership and Lane County conditions on its transfer. The Committee also wanted input from supporters of the successful Charter Amendment Initiative establishing the Section before it could make a recommendation.



# Issue Paper #20

## Section 37, Income Tax Cap

**Issue:** Is the Board unduly limited by the Charter in its ability to consider implementing the use of income taxes to fund anything but public safety.

**Discussion:** During the Committee's review of this issue, it was identified that this Section was referred to voters with a companion measure which would establish an income tax for public safety purposes. The measure for the income tax failed, but the measure to establish a charter requirement placing a cap on income tax and a public safety only use limitation passed. The committee discussed whether, given that the proposed income tax failed, whether this section should not be considered for repeal. Since Board action to establish an income tax can always be referred by either the Board or by referendum, there is a question of the need for this specific section. It was the general consensus of the Committee that this section was not needed, but perhaps more general language regarding a requirement to submit all income tax proposals and possibly sales tax proposals, with established limitations on the use of funds generated by such proposals, to voters might be something to consider further as an alternative to the very specific requirement that currently exists.

During the discussion with the Sheriff, it was noted that while new funding approved under this section was restricted to public safety, there was no limitation on diverting existing discretionary funding from the public safety function to some other function, thereby possibly diluting the impacts of the new public safety funding in favor of other programs.

**Recommendation:** The Committee recommends that this Section be repealed.

# Issue Paper #21

## Section 38, Charter Review Committee

**Issue:** Specific implementation dates established for the first review of the Charter will be moot after the 2011 review is completed.

**Discussion:** It was generally felt that follow-on committees in subsequent 10 year reviews, could recommend elimination of implementation language contained in this section if they felt it necessary.

**Recommendation:** No changes to Section 38 are recommended by the 2011 Committee.

# Issue Paper #22

## Proposed New Section 39, Prohibitions Related to Agenda 21, The UN Program of Action from the Rio Summit

**Issue:** Should the Lane Charter be amended to add a Section relating to preventing membership in, contractual relationships with, or transfer of funds to any non-governmental entity or its affiliates which are specifically mentioned in Agenda 21: The United Nations Programme of Action from Rio, as organizations which should be used to reinforce cooperation between localities towards realizing goals of sustainable development as set forth therein.

**Background:** This issue was placed before the Committee by Committee Member Shaylor Scalf together with proposed language for a Charter Amendment to establish a proposed prohibition. The request and proposed Charter language is located at Attachment 6.

**Discussion:** Mr. Scalf presented the issue and explained in some detail what he felt were the risks to the County in being forced to adopt development standards and complete costly studies as a condition of use, membership, recognition by and/or association with the International Council for Local Environmental Initiatives (ICLEI), also known as Agenda 21, the United Nations program of action from the Rio environmental summit, or any of its members or affiliates. Members of the Committee had varying knowledge of ICLEI and its goals and objectives. Most members felt that more information was needed on the issue in order to make a decision regarding a recommendation to the Board. While members understood that ICLEI promoted environmental development standards on an international scale, most members had little knowledge of the organization, its membership and affiliates, or the manner in which the organization could force compliance with their established standards against the will of a local government. There was also some discussion as to whether it was needed or appropriate to establish a Charter prohibition and questioned whether such a charter provision might have unintended consequences.

**Recommendation:** The Committee recommends more study on this issue before it would be in a position to make a recommendation. This was a split decision with five members agreeing that more information was needed and one member opposing further consideration. The Committee, at its final meeting, voted 4-2 to include this issue in its final report.

### Associated Attachment:

**Attachment 6:** Email dated June 1, 2011 from Shaylor Scalf with attachment



***Less Gov is the Best Gov, Because Less Government is the Best Government!***

**Should the Lane County Board of Commissioners Be Downsized From Five Members to Three Members?**  
By Scott Rohter, February 2011

After all of the bizarre, "Alice in Wonderland like" events that led up to the recent trial and conviction of Commissioners Peter Sorenson and Rob Handy for willfully violating Oregon's Public Meetings Law, perhaps the residents of Lane County should reconsider whether they want a five member Board of Commissioners or they want to return to a three member Board of Commissioners. We really don't need a five member Board of Commissioners and going back to a three member Board would have significant advantages.

1. It would save the County money!
2. It would show leadership by reducing the size of government, starting right at the top!
3. It would provide increased transparency by ensuring that no two members of the Board of Commissioners could ever meet again in private to discuss their votes!

We don't need a five member Board of Commissioners especially since it leads to private, closed door meetings between various groups of two Commissioners at a time, in order to formulate public policy decisions without the public's participation! In other words, it leads to prearranged, orchestrated voting of the type that Sorenson and Handy engaged in! I would rather not take away the ability of the County Commissioners to discuss with each other the merits of an issue, or to try to persuade each other of the correctness of their respective positions, but they already have the opportunity to do so in public at their Board meetings, lest those Board meetings just become a sham or a mere formality, and all of the important business of the County gets conducted in private behind closed doors! The County Commissioners must not be allowed to plan or orchestrate their votes prior to a public meeting, the way that Sorenson and Handy did! They must not be allowed to make a Board decision in private! And since it is just too hard for them to tell the difference between purely discussing a matter that will appear before the Board, and finding out how they will each vote, I think that the best policy is to just prevent any two Commissioners from ever meeting together in private, period. That's a simple rule. It's both easy to understand and easy to follow, and it's easy to keep track of. A three member Board of Commissioners would actually help to facilitate that goal because with a three member Board, if two members were to meet privately, then it would automatically constitute an immediate violation of the Public Meetings Law for having assembled a quorum in private!

With a three member Board of Commissioners, there would be:  
One Commissioner representing West Lane, including part of North Eugene.  
One Commissioner representing East Lane, including Springfield.  
One Commissioner representing the rest of Eugene.

The current population of Lane County is about 345,000. Each Commissioner could very comfortably represent about 115,000 residents. The current population of Eugene is about 145,000, so approximately 30,000 residents of Eugene would be represented by the West Lane Commissioner. That may be a little more than the current number of North Eugene residents that are represented by the West Lane Commissioner now, so the boundary lines might have to be redrawn slightly to meet that goal, but it would only be a minor boundary line adjustment!

The main difference between a five member Board of Commissioners and a three member Board of Commissioners is that the City of Springfield would lose their own individual representative on the Board, as the

City of Eugene would also lose one of their two individual representatives on the Board, in order to go back to a three member Board, which would almost certainly guarantee us more transparency! However Springfield, which is typically conservative would be well represented by the Commissioner from East Lane which is mostly rural and conservative. The balance of power in Lane County, vis a vis Liberals and Conservatives would remain unaffected by this change. Currently Eugene has two seats on the five Board of Commissioners and it needs one more vote to have a majority. Under a three member Board, Eugene would have one seat on the Board of Commissioners and would still need one more vote to have a majority just like before. Therefore Eugene's level of influence on the Board would remain the same. On most issues, conservative leaning Springfield would tend to vote along the same lines as rural and conservative leaning East Lane County. But on the other hand, if Springfield with a population of about 60,000 residents had a different opinion on a matter having to do with urban issues than the rest of the residents of East Lane County, then Springfielders would have an equal opportunity to influence their County Commissioner as do the other approximately 60,000 residents of mostly rural East Lane. There would be a 50/50 balance in East Lane between the urban residents of Springfield and the mostly rural residents of East Lane County. That's fair!

Another advantage of going back to a three member Board of Commissioners is that we could give each Commissioner a 25% pay raise to about \$100,000 from the current salary of about \$80,000 and we could afford to hire three personal assistants, one for each Commissioner to handle the increased work load if necessary. Right now, the Commissioners are almost never available to speak to their constituents when they call because they are almost always in meetings and there is only one receptionist for all five of the Commissioners. It is very difficult to actually speak to your Commissioner! If we pay each of the three assistants about \$30,000 the county would still save money over the cost of maintaining the current five member Board of Commissioners, and you might actually get to speak to the Commissioner's assistant! But most importantly we would never again have the problem of the County Commissioners secretly meeting in private and making decisions without any public participation and oversight, which precipitated the lawsuit brought against Lane County by former Commissioner Ellie Dumdi!

The way I see it, Commissioners Stewart and Bozievich who were just elected would be largely unaffected by a change back to a three member Board of Commissioners, except that there would be about 45,000 additional residents in each of their districts. Commissioner Leiken who was also just elected from Springfield would have to stand for re-election during the first election cycle after passage of any ballot measure returning to a three member Board of Commissioners against either Sorenson, Handy, or some other potential opponent from Eugene. In considering this idea I have made numerous phone calls to other counties in Oregon and across the country with similar size populations to see how many Commissioners they have on their Board of Commissioners.

Results follow:

**Oregon**

| County     | Population | # Commissioners |
|------------|------------|-----------------|
| Lane       | 344,000    | 5               |
| Marion     | 311,000    | 3               |
| Clackamas  | 376,000    | 5               |
| Jackson    | 199,000    | 3               |
| Washington | 523,000    | 5               |

**Nationwide**

| County  | State | Population | # Commissioners | Major City |
|---------|-------|------------|-----------------|------------|
| Allen   | IN    | 349,000    | 3               | Fort Wayne |
| Ada     | ID    | 373,000    | 3               | Boise      |
| Douglas | CO    | 296,000    | 3               |            |
| Boulder | CO    | 290,000    | 3               | Boulder    |

|           |    |         |     |               |
|-----------|----|---------|-----|---------------|
| Adams     | CO | 422,000 | 3   | Brighton      |
| Tulare    | CA | 421,000 | 5   | Visalia       |
| Placer    | CA | 333,000 | 5   | Roseville     |
| Berks     | PA | 402,000 | 3   |               |
| Bell      | TX | 310,000 | 4+1 | Coleen/Temple |
| Galveston | TX | 284,000 | 4+1 | Galveston     |
| Lubbock   | TX | 261,000 | 4+1 | Lubbock       |
| Clark     | WA | 418,000 | 3   | Vancouver     |
| Spokane   | WA | 456,000 | 3   | Spokane       |

If you care to comment on this proposal for returning to a three member Board of Commissioners, address your correspondence to: [info@lessgovisthebestgov.com](mailto:info@lessgovisthebestgov.com)

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Factors to consider in Elected vs. Appointed Assessor issue

Thursday, April 21, 2011 4:57 PM

From: "SPICKARD Anette B" <Anette.SPICKARD@co.lane.or.us>

To: "BURCH Dianne (SMTP)" <dianneburch@yahoo.com>, "SPIES Chuck (SMTP)" <spiescf@lowell-or.gov>

Some thoughts for the committee's consideration, some of which I mentioned today.....

Accountability

- Citizens should have as much direct access to the people responsible for their taxes as possible and shouldn't have to go through layers of bureaucracy to get to the final authority. They should have as much direct input/voice on who their government leaders are as possible.
- Over \$400 million comes through the Lane County Assessor's office each year. The Assessor should be equally accountable to all the 140,000 taxpayers that pay the money and the 82 tax districts that receive the money. The Assessor should not be accountable to only one governing body of the 82 districts. I currently prioritize requests from the tax districts based on their deadlines and needs (such as Urban Renewal calculations, Local Option levy and Bond estimates, property value analysis, large appeals etc.).
- It's possible that if the Assessor were appointed, the prioritization of work instead would come from the CAO or the BCC and they may want to prioritize Lane County's needs above all others. Currently, I place Lane County's requests into the queue along with everyone else without any special consideration.

Financial

- The Assessor's salary and compensation is set through an independent advisory process using other assessors as the comparables and is subject to a vote of the commissioners. If the Assessor were appointed and treated the same as other Lane County department directors, the salary of the position would likely increase because the Assessor would be placed on the same salary schedule as the other directors. Currently the Assessor is the lowest paid department director in Lane County. Other directors have a base salary of \$13,000 to \$27,000 per year higher than the Assessor. Additionally an appointed position would qualify for annual step increases (raises), vacation/sick time, vacation cash-outs, unemployment insurance, and various other benefits that are not granted to elected officials. There would be a financial impact to the county to convert the position to appointed.
- Alternatively, the county might save some money by not having the Assessor on the ballot every four years.

Politics

- The elected Assessor takes all of the "heat" for tax issues and the Board does not have to worry about that. I can provide additional public support to the Board on public policy issues. I believe my opinion carries more weight and credibility with the public as an independently elected assessor than it would if I were the Board or the CAO's employee. As an elected official I have more ability to express opinions on issues than a regular public employee. Having this independence can be helpful both to the public and the board in resolving problems quickly. I am much more sensitive to addressing the public's needs than perhaps other directors who are more shielded from that direct accountability. The public has no one else to blame but me if something is not done well or addressed in a timely fashion. That's a lot of pressure to perform and to perform well. That would be diluted if the position were appointed.
- Alternatively, an appointed assessor doesn't have to run for re-election and fundraise campaign dollars from people who may expect special treatment if they have a tax issue to resolve with the

office in the future. Being appointed would remove that dynamic. This has not happened in my experience but the dynamic is a possibility.

Administrative

- Regardless of whether the position is appointed or elected, the duties remain the same because the position still has to administer the state's tax laws and is ultimately under the supervisory authority of the Department of Revenue. The county can't pass ordinances creating a different property tax system so they have very little influence on the operations of the department.
- In either an appointed or elected situation the county can assign more duties to the assessor and structure the department in the way it feels is best for it's citizens. It's just that it is more of a partnership when the arrangement is agreed to by an elected assessor. An appointed assessor can be assigned duties without their consent.
- The county could set stricter eligibility/hiring requirements for an appointed assessor beyond that which is already set out in statute for elected assessors.
- Consolidation of functions such as the finance/treasurer's office into the assessor's office might be more palatable if it were under an appointed assessor. The county would have more flexibility in structuring operations with an appointed assessor.
- The Washington and Multnomah County Assessors are appointed and they both oversee the assessment, tax collection, county clerk, and financial functions of their counties and are very large departments. The Benton County Assessor is appointed as well but is only responsible for the appraisal function and has a small office. Benton County has a separate tax collector, county clerk, etc. There are many different combinations that could be designed with an appointed department director.

Lastly, what is best for the citizens? Is something broken that needs to be fixed? Are there service improvements to the public that would outweigh the cost of moving the Assessor to an appointed salary schedule? Would it change the nature of the relationships with the other tax districts?

The committee has a tough job and I appreciate their time on the issue.

Anette



## **ELECTED OFFICE OF THE SHERIFF**

### **EXECUTIVE SUMMARY**

#### **Issues Presented for Study**

In most of the states the long-standing historical practice has been that the sheriff is elected for a four-year term of office. An issue which periodically arises in various jurisdictions around the United States, often in response to a particularly current and unusual situation or one of local government political conflict, is whether or not the status of this office should be changed from elected to appointed.

#### **A Historical Perspective**

The question presented is not a new one, having been around in some form for at least 300 years. In 1682 the City of London and County of Middlesex were concerned with moves by the Crown that would deprive them of the right to elect their sheriffs. The American county itself has its antecedents in ninth century England when the King divided the country into "shires", or local government units. Three officials oversaw the shire: the earl, the sheriff, and the bishop. Of these, the shire-reeve, later called sheriff, was second in importance to the earl. Originally appointed, the English sheriff eventually became an elected official.

When English colonists set up local governments in America the units and types of officials were patterned after the English model but with adaptations including the appointment of local officials by the colonial governor. Appointment remained the norm until during the Jacksonian era when states switched to election of many county officials. Today the number of local positions still elected has been significantly reduced, but across most of the country the sheriff remains an elected official.

#### **Present Elected Status of Sheriff**

Across the country popular election is the almost uniform means of selection of the sheriff. Sheriffs are elected to four-year terms in 41 states, two-year terms in three states, a three-year term in one state and a six-year term in one state. The races are on a partisan ballot in 40 states and on a non-partisan basis in 6 states.

A few states do not have the office of sheriff as such. There are no sheriffs in Alaska and that office was essentially abolished in the year 2000 in Connecticut. Hawaii does not have the position traditionally associated with the office of sheriff. In Rhode Island, the governor appoints the sheriff. In two Colorado counties and Dade County, Florida, sheriffs are appointed by the county executive.

Some jurisdictions have explored switching to a system of appointed sheriffs and at least two have had an appointed sheriff and returned to a system of elections. In Multnomah County, Oregon the sheriff became appointed on January 1, 1967. From January 1, 1967, to late 1978 the county board appointed six different sheriffs. Due to dissatisfaction with that system, the voters returned to election of the sheriff. The position of sheriff in King County, Washington, which is the Seattle area, was elected until 1968. At that time the Home Rule Charter of the county was amended and the sheriff became appointed, serving at the pleasure of the elected executive. After

**Attachment #3**  
**Submittal by Sheriff Turner titled Elected Office of the Sheriff**

several years under this system the voters restored to position to being elected. Popular reports indicate that the voters felt that public safety and law enforcement services would be improved by the return to election of the sheriff.

In nearly 3100 other jurisdictions throughout the country, the sheriffs are elected, although in some jurisdictions sheriffs are appointed to fill out unexpired terms if there is a death or resignation of the incumbent. In 20 states a vacancy in office is filled by appointment by the county board of commissioners. The office of governor fills a vacancy by appointment in 9 states and a variety of other means are used in the remaining states to fill a vacancy, including special election, appointment of the chief deputy and appointment by the political party of the former sheriff. Several states use a combination of appointment and special elections, depending on when the vacancy occurs.

Efforts to place the issue of appointment before the voters have rarely resulted in a change from elected status. In 1994 Iowa held a referendum to change the status of sheriff from elected to appointed. That initiative was heavily defeated by the voters.

**Election is the best option.**

There are at least four reasons to support election of the sheriff.

- 1) The sheriff provides a check and balance as an elected county official directly responsible to the citizens that protects from undue influence by members of the county board or by other county officials. There are also several checks upon the unfettered discretion of the sheriff. The voters can remove the sheriff from office during the election; the county board, subject in some states to appellate review, controls the budget and salary of the sheriff; and in extreme cases statutes authorize the removal of the sheriff from office for misfeasance or nonfeasance of duty.
- 2) In our democracy, we should have the right to choose who is to be sheriff. In many counties the sheriff is the single most powerful individual and institution. Despite the efforts of appointment proponents, voters who have had a chance to decide the issue have nearly universally decided to keep the office elective. Citizens should have the freedom to choose their sheriff and direct election is the best means to accomplish that.
- 3) The election of the sheriff is consistent with national traditions and practices. Election of sheriffs is nearly uniform throughout the United States. History has shown in those jurisdictions in which the sheriff is appointed there is a decrease in quality and continuity of law enforcement services and administration. When the sheriff is subject to the whims and caprices of the board of commissioners, the office becomes more politicized, not less.
- 4) There is stability and continuity of office. Sheriffs at the county level and city police departments at the municipal level handle local law enforcement. While city police departments on the whole do a good job, comparison of the continuity, innovation and public responsiveness of the office sheriff to city police demonstrates the perils of appointment. There is no objective, empirical data that proves city police departments headed by an appointed law enforcement official are any more creative, innovative, stable or cost-effective than the office of sheriff.

Draft: 1/18/2009

## 2. What Is Instant Runoff Voting (IRV)?

Instant Runoff Voting (IRV) is a voting procedure that allows voters to rank order candidates for an office according to each voter's preferences, requires a candidate to receive a majority of votes to win, and eliminates the need for a separate run-off election when no candidate initially receives a majority. It has been used in Australia for nearly a century and has been adopted by several localities in the United States (see Appendix I).

For example, a voter might decide to rank his or her choice of candidates in this order:

|                                 |              |   |
|---------------------------------|--------------|---|
| Example of one voter's choices: | Candidate A: | 2 |
|                                 | Candidate B: |   |
|                                 | Candidate C: | 1 |
|                                 | Candidate D: | 3 |

In the above example, the voter has ranked candidate C as the first choice, candidate A as the second choice, and candidate D as the third choice, and chosen not to rank candidate B. (There are different versions of IRV. One version would allow fourth, fifth, and further choices until all candidates were ranked; another would allow only the top three choices to be indicated.)

After all the votes are cast, the first choice votes are counted. If any candidate receives a majority of first choice votes (that is, more than 50%), that candidate would be elected.

|                         |              |       |     |  |
|-------------------------|--------------|-------|-----|--|
| Example 1 of totals for | Candidate A: | 412   | 10% |  |
| all first choice votes: | Candidate B: | 2,163 | 55% | <input checked="" type="checkbox"/> winner |
|                         | Candidate C: | 1,304 | 33% |  |
|                         | Candidate D: | 68    | 2%  |  |

In the above example, candidate B received a majority of first choice votes (2,163 is 55% of all 3,947 votes cast) and so is elected.

However, if no candidate received a majority of first choice votes, the candidate with the fewest first choice votes would be eliminated and the ballots recounted using each ballot's top-ranked candidate still in the race.

|                         |              |       |     |  |
|-------------------------|--------------|-------|-----|--|
| Example 2 of totals for | Candidate A: | 503   | 13% |  |
| all first choice votes: | Candidate B: | 1,728 | 44% |  |
|                         | Candidate C: | 1,631 | 41% |  |
|                         | Candidate D: | 85    | 2%  |  |

*No winner*

Draft: 1/18/2009

In this example, none of the candidates received a majority of the votes. (Candidate B's leading position is not a majority.) Therefore candidate D would be eliminated, and the votes recounted using each ballot's top-ranked candidate still in the race. (Another way to think of this is that candidate D, having come in last, has his or her votes redistributed to the next-highest choice of each of the voters who had candidate D as their first choice.)

Suppose that in Example 2 above, of the ballots for which candidate D was the first choice, 21 have candidate A as the second choice, 54 have candidate B as the second choice, and 11 have candidate C as the second choice. In the second round of counting, the results would be:

|   |              |       |     |
|---|--------------|-------|-----|
| Example 2, second<br>round of counting: | Candidate A: | 523   | 13% |
|   | Candidate B: | 1,782 | 45% |
|   | Candidate C: | 1,642 | 42% |
| <i>No winner</i>                        |              |       |     |

If one of the candidates had a majority in this round of counting, that candidate would be elected. However, in this example none of the candidates has a majority yet. Therefore the process of the second round is repeated: the candidate with the fewest votes (now candidate A) is eliminated, and the votes are recounted using each ballot's top-ranked candidate still in the race. Suppose the totals of the third round of counting come out thus:

|  |              |       |                                     |
|--|--------------|-------|-------------------------------------|
| Example 2, third<br>round of counting: | Candidate B: | 1,949 | 49%                                 |
|  | Candidate C: | 1,998 | 51% <input type="checkbox"/> winner |

Candidate C now has a majority (1,986 is 50.6% of the total of 3,947 votes), and is elected.

IRV thus allows a majority to determine the winner of an election without the need for a run-off election. The votes are simply recounted using voters' ranked preferences, thus the name "instant" run-off.

In sum, the three key features of IRV are:

- Voters are allowed to rank-order their candidate preferences,
- A majority of votes is required for a candidate to win, and
- Only a single election is necessary.

## Financial Summary

### General Fund Spending Limit

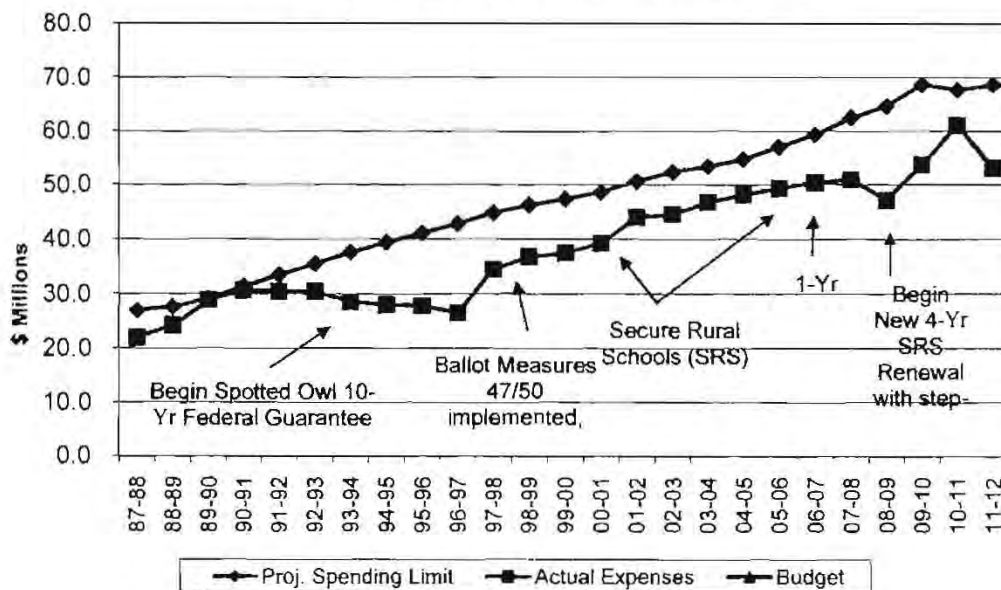
On July 1, 1985, a voter-approved amendment to the Lane County charter became effective. This charter amendment set a spending limit for discretionary General Fund operating expenditures. Annual adjustments to the spending limit were allowed, based on the Consumer Price Index (CPI) and the percentage change in County population.

The amendment provided for a fund for capital improvements. It also made allowances for capital expenditures and increasing costs due to shifted and mandated services. Costs for State mandated services include service costs from sentencing guidelines and land use definitions and processing. Also included is the shift in responsibility for Workers' Compensation for the District Attorney's Office and Youth Services to the County from the state. Capital improvement projects outside the spending limit include the HVAC construction.

The FY 11-12 financial forecast projected a discretionary spending limit of up to \$68.6 million. However, due to the reduction in Secure Rural Schools funding and after factoring in the General Fund reserve requirement, expenses are forecast at \$53.3 million. This was approximately \$15.3 million below the charter imposed spending limit. This is the size of the gap between what is actually available to spend for services to the citizen and what the citizens have allowed the County to spend based upon annual inflation and population adjustments.

The chart below shows how actual spending has compared to the allowable spending limit over time. Several key factors which have had a tremendous influence on spending levels are also shown.

**Comparison of Charter Imposed Spending Limit to Actual/Proposed Discretionary Spending**





Addition of Section 39

Wednesday, June 1, 2011 12:34 PM

From: "Shaylor Scaif" <nanshay36@yahoo.com>

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1 File (14KB)



Section 3...

Committee Members,

I am submitting to you a proposed addition to the Charter, Section 39.

This is a result of many months compiling information and speaking to various group throughout Lane County. This all stemmed from a group call ICLEI (International Council for Local Environmental Initiatives) also known as Agenda 21 and a Summit held in RIO under the direction of the United Nations. Their goal is to control the world's food and water through various programs.

One such program was the 200' flood plan that created regulations that would affect property owners use and also expansion of new business. Reparation Zone, This is used mostly in Europe to refer to as damage done by a war zone.

Another program was under the banner of ICLEI, this organization helps to develop programs about greenhouse gas; to pay for the development of the regulations would require addition taxes and fines proposed on the County population.

Both measures were voted down by the past County Commissioners by a margin of 3 to 2. As you know we had over 700 people turn out to protest the passing of the 200' Water Front (Flood Plane)

I would like to take credit for the writing of the proposed section, however it came from the City Attorney of the City of Spokane.

Shaylor

A Section relating to preventing membership in, contractual relationships with, or transfers of funds to any non-governmental entity or its affiliates which are specifically mentioned in AGENDA 21: THE UNITED NATIONS PROGRAMME OF ACTION FROM RIO as organizations which should be used to reinforce cooperation between localities towards realizing goals of sustainable development set forth therein; amending the Charter of Lane County, Oregon adopting a new section 39, declaring an emergency, providing severability, and providing for other matters related thereto.

The County of Lane does ordain:

That the County Charter of Lane County, Oregon is amended to add a new section under Article VII: Miscellaneous Provisions.

1. Definitions. The definitions of this subsection apply throughout this section unless the context clearly requires otherwise.
  - a. "Affiliation" exists between two organizations if either one organization has a voting or economic interest of at least 20% in the other organization or there exists an overlapping management structure to the extent that two members are shared amongst the managing members of the respective organizations.
  - b. "Non-governmental entity" refers to an organization that is not the United States federal or state governments, any agencies or public corporations established by such, or the government of another nation or one of its municipalities.
  - c. "Managing members" means the board of directors, executive committee, general partners, trustees, or other members of the organization exercising ultimate management authority as specified in the charter, bylaws, or organizational documents for such organization, as well as any officers of the organization directly appointed by such governing body of members.
  - d. "Nation" includes any sovereign nation recognized as such by the United States Department of State.
  - e. "Organization" refers to a group or association of individuals who are joined together either formally or legally and includes corporations, partnerships, associations, governments, and public corporations established by such governments.
2. Neither Lane County, nor any agency or corporation created by Lane County, can be a member of, contracted for service from, or gives financial aid to any non-governmental entity which is specifically mentioned by name in the text of AGENDA 21: THE UNITED NATIONS PROGRAMME OF ACTION FROM RIO as an organization which should be used to reinforce cooperation between localities towards realizing goals of sustainable development. A non-governmental agency which has changed its official name shall not be exempt from this section if the organization was identified in the aforementioned document by its former name at the time of its publication in 1992.
3. If the prohibitions on interactions with Lane County set forth in subsection (2) of this section apply to an organization, the same prohibitions shall apply to any non-governmental entity with an affiliation to such organization.

4. Nothing in this section shall be construed to infringe upon the first amendment rights of any organization to petition Lane County, to provide its advice or opinion to county officials, or to prevent county officials from seeking out such opinion if such advice is offered without compensation and absent any underlying contractual agreement.
5. County officials or employees may violate provisions of this section only if a valid law of the state of Oregon specifically mandates that they do so. However, this section shall be construed to prevent the county or any of its officials operating on behalf of the county from either accepting a grant from or entering into an agreement with the federal government, state of Oregon, or any other organization which would require the violation of any of the previous prohibitions set forth in this section unless accepting such a grant or entering into such agreement is not discretionary and absolutely mandated by a valid law of the state of Oregon. Any such agreement which is discretionary executed subsequent to the enactment of this section shall be declared null and void under the County Charter as any official entering into such agreement exceeding his or her authority to execute such agreement. If any such discretionary agreement is executed prior to the enactment of this section, the county shall use any discretion allowed by Oregon law to revoke such agreement in order to conform to the prohibitions set forth in this section as expeditiously as possible. Existing memberships in non-governmental entities prohibited by this section shall be terminated within thirty days of the enactment of this section.
6. The county shall adopt punitive measures with respect to county officials or employees who willfully violate the provisions of this section sufficient to deter such violations within six months of the enactment of this section.

Election: That this Section 39 be submitted to the electorate of Lane County for their approval or rejection at the next election.

Effective Date of Amendment to Lane County Charter. This Amendment, if approved by the electorate, shall take effect and be in full force upon the issuance of the certification of the election by the Lane County Auditor's Office.

Severability. If any provisions of this section or its application thereof to any person or circumstance is held invalid, the remainder of this section or the application of the provision to other persons or circumstances shall not be affected thereby.