

W. S. A.  
03-8-20-1

## AGENDA COVER MEMO

---

DATE: August 30, 2003

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Frank Simas  
Right of Way Manager

AGENDA ITEM TITLE: In The Matter of Amending Chapter 21 of the Lane Manual to Add a Delegation of Authority to Approve the Conveyance and Recordation of Instruments Conveying Title or Interest to Lane County (LM 21.400 through 21.410).

---

### I. MOTION

THAT THE ORDER BE APPROVED AMENDING CHAPTER 21 OF THE LANE MANUAL DELEGATING AUTHORITY TO APPROVE CONVEYANCE AND RECORDATION OF AN INSTRUMENT CONVEYING TITLE OR INTEREST TO LANE COUNTY TO THE DIRECTOR OF PUBLIC WORKS, RIGHT OF WAY MANAGER, DIRECTOR OF MANAGEMENT SERVICES OR PROPERTY MANAGEMENT OFFICER.

### II. ISSUE OR PROBLEM

ORS 93.808, which became effective in 1999, requires that an instrument conveying title or interest to a political subdivision carry an indication of approval by the political subdivision prior to its being recorded.

By Order No. 99-11-23-7, the Board delegated temporary authority to the County Administrator or his designee to acquire and record interest or title in property for the County. This authority was effective for a period of 6 months, but was extended by Order No. 00-4-25-9, which expired April 8, 2003.

The Board Orders approved the delegation and were intended to allow sufficient time to formulate and enact the necessary amendments to the Lane Manual to reflect the requirements of the ORS.

### III. DISCUSSION

#### A. Background:

The authority granted by the two previous Board Orders has been further delegated by the County Administrator to the Director of Public Works, or the Right of Way Manager, depending upon the amount of the monetary consideration being paid to the grantee. The majority of these transactions involve acquisitions for Capital Improvement Projects, for which authorization to acquire right of way has previously been given in connection with the annual approval of the Capital Improvement Program by the Board, but there are transactions which involve acquisitions for road maintenance projects including storm damage, minor widening, drainage easements or other projects which are not included in the Capital Improvement Program. In addition, some transactions involve the use of Road Funds but are not for the purchase of right of way, such as zone maintenance facilities or wetland mitigation sites.

The Department of Management Services, through the Department Director or the Property Management Officer, is also involved in acquiring interests in real property on behalf of the County. These interests include property acquisitions, easements and long term leases.

#### B. Analysis:

Because nearly all acquisitions either have prior approval by the Board or are in connection with the adopted Capital Improvement Program, or are minor in nature and in connection with routine maintenance and preservation operations on existing County roads, it is appropriate to revise Lane Manual 21.400 to include compliance with ORS 93.808 in a similar manner as the current delegated authority. Said delegation would be consistent with the goals and responsibilities of the Department of Public Works.

Depending on the dollar amount of the consideration for the property of interest therein, the requisite authority can be delegated to the Board of County Commissioners, County Administrator, Director of Public Works, the Right of Way Manager, Director of Management Services or Property Management Officer as shown on the attached proposed revision to Lane Manual Section 21.400 and 21.410.

This delegation will allow acquisitions for Public Works projects to be processed in a manner similar to the existing temporary delegation, with the exception that it will not be necessary to obtain the signature of the County Administrator for transactions involving consideration of less than \$100,000.

Similarly, acquisition of real property interests by the Department of Management Services is done with the prior approval of the Board. Delegating authority to the Department Director to approve the recordation of transactions of under \$100,000 or to the Right of Way Manager or Property Management Officer for transactions less than \$50,000, should expedite the closing of Board-approved transactions. The County Administrator will approve amounts under \$250,000, and amounts over \$250,000 will go to the Board of County Commissioners for approval of the recordation of the instrument conveying title to the County.

Changes to 21.410 (2) are also included as a matter of updating the language, so that it will clarify that Real Property Acquisition by the Department of Public Works is not necessarily limited only to right of way.

C. Alternatives/Options

1. Approve the attached Order amending the Lane Manual.
2. Do not approve the Order, and approve some alternate procedure which will allow acquisition for Public Works projects to continue while assuring compliance with ORS 93.808.
3. Refer the matter to the Policy and Procedures Committee for a recommendation as to an alternate procedure.

D. Recommendations

Alternative No. 1 is recommended.

IV. IMPLEMENTATION/FOLLOW-UP

The Clerk of the Board will distribute the Lane Manual amendments upon approval.

V. ATTACHMENTS:

Proposed Revision to Lane Manual Section 21.400 and 21.410.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 03-

IN THE MATTER OF AMENDING CHAPTER 21 OF THE LANE MANUAL TO ADD A DELEGATION OF AUTHORITY TO APPROVE THE CONVEYANCE AND RECORDATION OF INSTRUMENTS CONVEYING TITLE OR INTEREST TO LANE COUNTY (LM 21.400 through 21.410)

The Board of County Commissioners of Lane County orders as follows:

Lane Manual Chapter 21 is hereby amended by removing, substituting and adding the following section:

**REMOVE THIS SECTION**

21.400 – 21.410

as located on pages 21-23 through 21-24  
(a total of 2 pages)

**INSERT THIS SECTION**

21.400 – 21.410

as located on pages 21-23 through 21-24  
(a total of 2 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of these substitutions and additions is to add a delegation of authority to approve the conveyance and recordation of instruments conveying title or interest to Lane County (LM 21.400 through 21.410).

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

\_\_\_\_\_  
Peter Sorenson, Chair  
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 7-29-03 Lane County

\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

Liability Insurance will include as Additional Named Insureds. County, its officers, employees and agents.

(b) The limit of Liability Insurance shall generally not be less than:

(i) Automobile.

Bodily Injury - \$500,000 per person and \$1,000,000 per occurrence.

Property Damage - \$300,000 per occurrence.

(ii) All Other.

Bodily Injury - \$1,000,000 per occurrence.

Property Damage - \$300,000 per occurrence.

However, to encourage bidding on small contracts by small firms, the limits of liability may be set at different levels by the Risk Manager prior to bids being advertised, depending upon the risk involved and the exposure created by the fulfilling of the contract. The limits for general liability in no event will be less than those provided in the Oregon Tort Claims Act, ORS Chapter 30. *(Revised by Order No. 85-6-12-13, Effective 6.12.85)*

## REAL PROPERTY

### **21.400 Real Property Acquisition, Management and Disposition Policy.**

(1) The Department of Management Services shall be responsible for procuring real property interests for County needs, as directed by the Lane County Board of Commissioners, through purchase and lease, for managing County-owned, rented and tax-foreclosed real property and for disposing of surplus real property, with the exception of County rights-of-way, parcels of land and other real property interests purchased through the General Road Fund, Solid Waste Management Fund, and Parks Fund. The Department of Management Services shall maintain records on County-owned and occupied property, shall cause all property related transactions to be properly filed and/or recorded and shall represent the County's interest in all property matters in accordance with applicable Federal, State and local laws, rules and regulations. The Board shall have final authority on all real property matters, except as delegated elsewhere in this chapter.

(2) The Department of Public Works shall be responsible for acquiring real property interests for Public Works projects and for managing and disposing of any excess real property interest or parcels of land acquired through the General Road Fund, Solid Waste Management Fund, or Parks Fund. The Department of Public Works shall maintain records on County-owned and occupied real property interests, rights-of-way and parcels of land acquired through the General Road Fund, Solid Waste Management Fund, and Parks Fund, shall cause all such transactions to be properly filed and/or recorded and shall represent the County's interest in all such matters in accordance with applicable Federal, State and local laws, rules and regulations. The Board shall have final authority on all property matters related to the General Road Fund, except as delegated elsewhere in this chapter.

(3) Pursuant to ORS 93.808, authority to approve the conveyance and recordation of an instrument conveying title or interest to Lane County is hereby delegated to the Department Director to approve the recordation of transactions of under \$100,000, or the Right-of-Way Manager or Property Management Officer for transactions less than \$50,000. The County Administrator will approve amounts under \$250,000 and amounts over \$250,000 will go to the Board of County Commissioners for approval.

(4) No action of Lane County officers, employees or agents in acquiring, managing or disposing of real property shall be binding upon Lane County, if undertaken

through fraud, breach of fiduciary duty or through purported exercise of powers not specifically delegated by law.

(5) The County Administrator is delegated authority to sign State of Oregon Well Ownership Information Forms required to be recorded for county-owned land pursuant to ORS 537.788. *(Revised by Order No. 01-5-30-9, Effective 5.30.01)*

**21.410 Real Property Acquisition.**

(1) All contracts for real property acquisition shall be acted upon by the Board through prescribed agenda process. Upon Board approval, the County Administrator will be delegated authority to sign the contracts on behalf of the Board and copies will be distributed in accordance with standard contract routing procedures.

(2) Acquisition of real property interests for Public Works projects shall be negotiated by the Public Works Department in accordance with the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" and other applicable Federal, State and local rules and regulations. The Department shall establish such internal procedures as necessary to insure that independent appraisals and unbiased reviews are used to determine fair market value for property acquisition for such purposes. Funding for acquisition of real property interests for Public Works projects will be included in normal budgeting procedures and as part of the project costs projected through the Public Works Five-Year Capital Improvements Program. *(Revised by Order No. 98-4-1-11, Effective 4.1.98)*

||At right margin indicates changes

**LEGISLATIVE**

**Bold** indicates material being added

**FORMAT**

~~Strikethrough~~ indicates material being deleted **FORMAT**

21.40021.410

Lane Manual

21.40021.410

Liability Insurance will include as Additional Named Insureds. County, its officers, employees and agents.

(b) The limit of Liability Insurance shall generally not be less than:

(i) Automobile.

Bodily Injury - \$500,000 per person and \$1,000,000 per occurrence.

Property Damage - \$300,000 per occurrence.

(ii) All Other.

Bodily Injury - \$1,000,000 per occurrence.

Property Damage - \$300,000 per occurrence.

However, to encourage bidding on small contracts by small firms, the limits of liability may be set at different levels by the Risk Manager prior to bids being advertised, depending upon the risk involved and the exposure created by the fulfilling of the contract. The limits for general liability in no event will be less than those provided in the Oregon Tort Claims Act, ORS Chapter 30. *(Revised by Order No. 85-6-12-13, Effective 6.12.85)*

## REAL PROPERTY

### 21.400 Real Property Acquisition, Management and Disposition Policy.

(1) The Department of Management Services shall be responsible for procuring real property interests for County needs, as directed by the Lane County Board of Commissioners, through purchase and lease, for managing County-owned, rented and tax-foreclosed real property and for disposing of surplus real property, with the exception of County ~~rights-of-way~~rights-of-way, parcels of land and other real property interests purchased through the General Road Fund, Solid Waste Management Fund, and Parks Fund. The Department of Management Services shall maintain records on County-owned and occupied property, shall cause all property related transactions to be properly filed and/or recorded and shall represent the County's interest in all property matters in accordance with applicable Federal, State and local laws, rules and regulations. The Board shall have final authority on all real property matters, except as delegated elsewhere in this ~~Chapter~~chapter.

(2) The Department of Public Works shall be responsible for acquiring ~~additional rights-of-way for road improvement~~real property interests for Public Works projects and for managing and disposing of any excess ~~County rights-of-way~~real property interest or parcels of land acquired through the General Road Fund, Solid Waste Management Fund, or Parks Fund. The Department of Public Works shall maintain records on County-owned and occupied real property interests, rights-of-way and property~~parcels of land~~ acquired through the General Road Fund, Solid Waste Management Fund, and Parks Fund, shall cause all such transactions to be properly filed and/or recorded and shall represent the ~~County's~~County's interest in all such matters in accordance with applicable Federal, State and local laws, rules and regulations. The Board shall have final authority on all property matters related to the General Road Fund, except as delegated elsewhere in this ~~Chapter~~chapter.

(3) Pursuant to ORS 93.808, authority to approve the conveyance and recordation of an instrument conveying title or interest to Lane County is hereby delegated to the Department Director to approve the recordation of transactions of under \$100,000, or the Right-of-Way Manager or Property Management Officer for transactions less than \$50,000. The County Administrator will approve amounts under

||At right margin indicates changes

LEGISLATIVE

**Bold** indicates material being added

FORMAT

~~Strikethrough~~ indicates material being deleted **FORMAT**

21.41021.410

Lane Manual

21.41021.410

**under \$250,000 and amounts over \$250,000 will go to the Board of County Commissioners for approval.**

~~———— (3) The County Administrator is delegated authority to sign State of Oregon Well Ownership Information Forms required to be recorded for county owned land pursuant to ORS 537.788.~~

(4) No action of Lane County officers, employees or agents in acquiring, managing or disposing of real property shall be binding upon Lane County, if undertaken through fraud, breach of fiduciary duty or through purported exercise of powers not specifically delegated by law.

**(5) The County Administrator is delegated authority to sign State of Oregon Well Ownership Information Forms required to be recorded for county-owned land pursuant to ORS 537.788. (Revised by Order No. 01-5-30-9, Effective 5.30.01)**

### **21.410 Real Property Acquisition.**

(1) All contracts for real property acquisition shall be acted upon by the Board through prescribed agenda process. Upon Board approval, the County Administrator will be delegated authority to sign the contracts on behalf of the Board and copies will be distributed in accordance with standard contract routing procedures.

~~(2) Acquisition of additional right of way for road and bridge improvement~~**real property interests for Public Works** projects shall be negotiated by the Public Works Department in accordance with the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" and other applicable Federal, State and local rules and regulations. The Department shall establish such internal procedures as necessary to insure that independent appraisals and unbiased reviews are used to determine fair market value for property acquisition for such purposes. Funding for ~~right-of-way~~**acquisition of real property interests for Public Works** projects will be included in normal budgeting procedures and as part of the project costs projected through the Public Works Five-Year Capital Improvements Program. ~~The Director of the Department of Public Works or his or her authorized representative, may be delegated responsibility to authorize purchase of right of way budgeted and authorized through the Capital Improvements Program and to execute related instruments at the direction of the Board.~~ **(Revised by Order No. 98-4-1-11, Effective 4.1.98)**