



TOM LININGER

Lane County Commissioner
East Lane District

W129

May 27, 2003
WP bc/tl/03009/T

Peter Sorenson, Chair
Lane County Board of Commissioners
125 East 8th Avenue
Eugene, OR 97401

Dear Commissioner Sorenson:

I am writing to provide formal notice that I will resign from the Board of County Commissioners effective August 15, 2003. I regret that this resignation is necessary. I have enjoyed serving with you and the other commissioners since January.

Sincerely,

Tom Lininger
Lane County Commissioner

POSSIBLE BOARD VACANCY CALENDAR

If the Board wishes to fill the vacancy at the next available Board meeting after the resignation is effective, then this type of calendar allows for an application process, selection of interview candidates, and interviews, in conjunction with the present Board meeting schedule. The Chair and Vice-Chair asked that I prepare this for the Board discussion as an example of a possible process.

Wed., June 4 – Discussion of process

Mon., June 16 – Applications available. (If Board members wish to contribute questions to be answered in writing by applicants, those would need to be submitted the previous week, in order to be included. If desired, those questions could be reviewed/selected at the Board meeting on June 11).

Mon., July 7 – Applications due

Tues/Wed July 8/9 – down week

Tues/Wed., July 15/16 – Board selection of interview candidates from applicant pool.

Tues/Wed, July 29/30 – Board interviews

Tues/Wed, Aug 5/6 down week

Tues/Wed Aug 12/13 (alternative date for interview; but this is Fair week)

Fri, Aug. 15 – resignation effective

Tues/Wed Aug 19/20 Board appointment of Commissioner.

<u>June 2003</u>							<u>July 2003</u>							<u>August 2003</u>						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7			1	2	3	4	5						1	2
8	9	10	11	12	13	14	6	7	8	9	10	11	12	4	5	6	7	8	9	
15	16	17	18	19	20	21	13	14	15	16	17	18	19	10	11	12	13	14	15	16
22	23	24	25	26	27	28	20	21	22	23	24	25	26	17	18	19	20	21	22	23
29	30						27	28	29	30	31			24	25	26	27	28	29	30
														31						

Laws applicable to Commissioner vacancy as of 5/27/03:

Oregon Constitution

Art V, §16 " . . .When any vacancy occurs in any elective office of the . . . county thereof, the vacancy shall be filled at the next general election, provided such vacancy occurs more than sixty-one (61) days prior to such general election."

Art VI, §7 " Such other county . . . officers as may be necessary, shall be elected, or appointed in such manner as may be prescribed by law."

Art VI, §8 Co. officer qualifications/duties --- "Every county officer shall be an elector of the county and [possess] such other qualifications as may be prescribed by law. All county ...officers shall keep their respective offices at such places therein, and perform such duties, as may be prescribed by law."

Art VI, §9 Vacancies in county offices "shall be filled in such manner as may be prescribed by law."

Art VI, §10 Home Rule " ...a county charter shall prescribe the organization of the county government and provide directly, or by its authority, for the number, election or appointment, qualifications, tenure, compensation, powers and duties of such officers as the county deems necessary...."

Orig. Art VII, §§ 12, 15 address commissioners, but are no longer applicable.

Art. XV, §1 (1) "All officers, except members of the Legislative Assembly and incumbents who seek reelection and are defeated, shall hold their offices until their successors are elected, and qualified.

(2) If an incumbent seeks reelection and is defeated, he shall hold office only until the end of his term ...[goes on to talk about election contest].

§ 2 – Tenure of office; how fixed

§3 – Oaths of office – "Every person elected or appointed to any office under this Constitution, shall, before entering on the duties thereof, take an oath. . . ."

Lane County Home Rule Charter

"Section 11. MEMBERSHIP, ELECTION AND TENURE

(1) The board of commissioners shall consist of five county commissioners.

(2) Except as this charter provides to the contrary, each commissioner shall be elected by district for a four-year term.

(3) The board of county commissioners shall be elected as follows.

(a) At the November general election the commissioners shall be elected as provided for in Section 32 of this charter.

(b) At the election the candidate for each position who receives the highest number of votes cast shall be entitled to a certificate of election to office.

(c) The following election districts shall be established from which the commissioners shall be elected:

(i) The West Lane County District, generally comprised of western Lane County outside the metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 1.

(ii) The Springfield District, generally comprised of the Springfield metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 2.

(iii) The South Eugene District, generally comprised of the southern Eugene metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 3.

(iv) The North Eugene District, generally comprised of the northern Eugene metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 4.

(v) The East Lane County District, generally comprised of eastern Lane County outside the metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 5.

(d) &(e) [redistricting]"

"Section 12. FULL-TIME RESPONSIBILITY OF COMMISSIONERS

While serving as a member of the board of county commissioners, a county commissioner shall devote full time to the office."

"Section 24. QUALIFICATIONS

(1) To qualify for an elective office of the county, a person

(a) shall be a legal voter of the state,

(b) shall be a resident of the county, and

(c) shall have resided in the county two years immediately preceding the beginning of the term of office.

(2) ...

(3) 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. A district boundary change shall not disqualify a commissioner until that commissioner's term of office has expired."

"Section 25. VACANCIES IN OFFICE

An office shall be deemed vacant

(1) Upon the incumbent's

(a) death,

(b) adjudicated incompetence, mental illness or insanity,

(c) conviction of a felony, or unlawful destruction of public records, or of other criminal offense pertaining to the office,

(d) resignation,

(e) recall from office, or

(f) ceasing to possess the qualifications for the office;

(2) Upon the failure of the person elected or appointed to the office to qualify therefor within 10 days after the time for the term of office to begin, or

(3) with reference to a county commissioner,

(a) upon absence from the county for 30 days without the consent of the other commissioners or upon absence from meetings of the board of county commissioners for 60 days without a like consent and (b) upon a declaration by the board of the vacancy."

"Section 26. FILLING OF VACANCIES

- (1) A vacancy in an elective office of the county shall be filled in the manner prescribed by state law.
- (2) A vacancy in an appointive office of the county shall be filled by the board of county commissioners or pursuant to its authority.
- (3) During
 - (a) the temporary disability of an elective officer or
 - (b) the absence from the county temporarily for any reason the office may be filled pro tem by the board of county commissioners."

"Section 29. NOMINATION AND ELECTION OF COUNTY OFFICERS

Except as this charter provides to the contrary, the manner of nominating and electing candidates for elective county offices shall be the manner now or hereafter prescribed by the laws of the state for the conduct of nonpartisan nominations and elections.

- (1) No petition, declaration, primary or general ballot for an elective county office shall make reference to any political party ballot or to a political party affiliation or designation.
- (2) When there is only one person as a candidate for nomination to an elective county office, his name shall not be placed upon the primary ballot but he shall be the nominee for the office.
- (3) A primary or general ballot, as the case may be, shall be delivered to each registered elector desiring to vote, regardless of party affiliation.
- (4) When a candidate for nomination for an elective county office receives a majority of all votes cast at the primary election for the office for which he is a candidate, the name of that candidate, and no other, shall be printed on the ballot for the general election."
- (5) If no candidate at the primary election receives a majority of all votes cast, the two candidates receiving the highest number of votes shall be placed on the general election ballot.

"Section 32. CONTINUATION OF TERMS OF COUNTY COMMISSIONERS

- (1) The county commissioners who are in office at the time this charter takes effect may continue in their respective offices for the terms to which they have been elected.
- (2) At the general November election in 1978, commissioner Position Nos. 1, 2, and 5 shall be voted upon by the voters of the respective districts and filled for a four-year term.
- (3) At the general election in 1980, commissioner Position Nos. 3 and 4 shall be voted upon by the voters of the respective districts and filled for a four-year term.
- (4) At the general November election in 1982, and at every second year thereafter, the commissioners positions which have expired shall be voted upon by their respective districts for a four-year term."

Statutes

"203.085 County election dates; procedures for emergency elections.

- (1) Except as provided in subsection (2) of this section, no election on a county measure or for a county office shall be held on any date other than:
 - (a) The second Tuesday in March;
 - (b) The third Tuesday in May;
 - (c) The third Tuesday in September; or

(d) The first Tuesday after the first Monday in November.

(2) An emergency election may be held on a date other than those provided in subsection (1) of this section, if the county governing body by resolution finds that an emergency exists that will require an election sooner than the next available election date to avoid extraordinary hardship to the community. A determination under this subsection as to whether an emergency exists is within the sole discretion of the county governing body.

(3) A county governing body, with adequate notice, shall hold a public hearing, on a date other than a regularly scheduled meeting, for the purpose of making findings substantiating the fact that an emergency exists before scheduling an election on a date other than those specified in subsection (1) of this section.

(4) Notice of a county's intent to hold an emergency election shall be filed with the county elections authority no later than 47 days preceding the desired election date. At the time the notice of election is given to the county elections authority, the county shall also file with the elections authority a certified copy of the ballot title and a copy of the resolution and findings adopted by the county governing body to authorize the emergency election as required under subsection (3) of this section."

"204.005 Election of county officers. [probably not apply in home rule county]

There shall be elected at the general election, by the electors of each county, the following county officers:

(1) A sheriff.

(2) A county clerk.

(3) A county assessor.

(4) A county treasurer.

(5) A county surveyor.

(6) A county commissioner to succeed any commissioner whose term of office expires the following January; and in any county where there is a vacancy from any cause in the office of county commissioner, there shall be elected an additional commissioner to fill the vacancy."

"204.010 Terms of office of county officers. [Applicable in home rule county only in absence of charter language or if charter incorporates state law.]

(1) Except as provided in subsection (2) of this section, the term of office of each officer mentioned in ORS 204.005 is four years.

(2) When two or more county commissioners are elected for one county at a general election and one of them is elected to fill a vacancy, as provided in ORS 204.005 (6), one of them shall hold office for two years and the others four years."

"236.010 Causes for vacancies in office.

(1) An office shall become vacant before the expiration of the term if:

(a) The incumbent dies, resigns or is removed.

(b) The incumbent ceases to be an inhabitant of the district, county or city for which the incumbent was elected or appointed, or within which the duties of the office of the incumbent are required to be discharged.

(c) The incumbent is convicted of an infamous crime, or any offense involving the violation of the oath of the incumbent.

(d) The incumbent refuses or neglects to take the oath of office, or to give or renew the official bond of the incumbent, or to deposit such oath or bond within the time prescribed by law.

(e) The election or appointment of the incumbent is declared void by a competent tribunal.

(f) The incumbent is found to be a mentally diseased person by the decision of a competent tribunal.

(g) The incumbent ceases to possess any other qualification required for election or appointment to such office.

(h) Appointment of the incumbent is subject to Senate confirmation under section 4, Article III of the Oregon Constitution and the appointment is not confirmed.

(2) The provisions of subsection (1)(b) of this section shall not apply where residence within the district, county or city for which the incumbent was elected or appointed is not required for such election or appointment."

"236.210 Filling vacancies in county offices; qualification.

(1) When there is a vacancy in any elective county office other than the office of county judge or county commissioner, the county court or board of county commissioners shall appoint a person to perform the duties of the office until the vacancy is filled by election.

(2) Except as provided in subsection (3) of this section, when a vacancy occurs in the nonpartisan office of county judge who does not exercise judicial functions or county commissioner, the remaining members of the county court or board of county commissioners shall appoint a person to perform the duties of the office until the vacancy is filled by election.

(3) When a vacancy occurs in the office of county judge who exercises judicial functions, the Governor shall fill the vacancy by appointment as provided in section 16, Article V of the Oregon Constitution.

(4) Before a person appointed under subsection (1) or (2) of this section takes office, the person shall qualify in the same manner as required by law of the officer in whose place the person is appointed."

"236.225 Filling vacancies in offices of county governing body.

(1) If vacancies exist at the same time in all of the offices of members of a county governing body, two qualified persons shall be appointed by the Governor, and one by the appointees of the Governor, to perform the duties of the offices until the vacancies are filled as provided by law. If vacancies exist at the same time in all but one of such offices, the Governor shall appoint one qualified person who, with the incumbent serving in office, shall appoint another, each to perform the duties of the offices until the vacancies are filled. If county judge is one of the offices vacant, one of the appointments made by the Governor under this section shall be to the office of county judge.

(2) When a county charter establishes a county governing body with more than three members, if a number of vacancies exist at the same time in the offices of members of that governing body so that all the remaining members do not constitute a quorum for the conduct of county business, the Governor shall appoint to the vacant offices the minimum number of qualified persons sufficient, with the incumbent members of the county governing body, to form a quorum. Persons appointed by the Governor under this subsection, together with the incumbent members serving in office, shall appoint qualified persons to the remaining vacant offices. All persons appointed under this subsection shall perform the duties of the office of member of the county governing body until the vacancies are filled as provided by law.

(3) ORS 236.100 [political affiliation of person appointed to fill vacancy in partisan elective office] applies to appointments under this section."

"236.310 Right of county commissioner to resign.

Any person who receives a certificate of election as a commissioner of the county court is at liberty to resign the office, though the person may not have entered upon the execution of its duties or taken the requisite oath of office."

"236.320 Recipient of resignation.

Resignation shall be made as follows:

- (1) By the Secretary of State, State Treasurer and all officers elected by the legislature, to the Governor.
- (2) By all officers who hold their offices by election, to the officer authorized by law to order a special election to fill the resulting vacancy.
- (3) By all other officers holding their offices by appointment, to the body, board or officer that appointed them."

"236.325 Resignation of office effective at future date; selection of successor; exception.

Notwithstanding any other provision of law:

- (1) The holder of a public office may resign the office effective at a future date that is prior to the expiration of the term of the office.
- (2) Any person who receives a certificate of election as a holder of a public office, even though the person may not have entered upon the execution of its duties or taken the requisite oath of office, may resign the office effective at a future date that is:
 - (a) Prior to the beginning of the term of the office; or
 - (b) After the beginning of the term of the office.
- 3) Except where an election is required by law, if the holder of a public office or a person who receives a certificate of election as a holder of a public office resigns the office effective at a future date, the appointing authority required by law to fill a vacancy in the public office may begin the process to fill the vacancy and may select a successor prior to the effective date of any resignation under this section.
- (4) The appointing authority may appoint a successor to fill a vacancy in the public office at any time after the effective date of a resignation described in this section. This subsection does not apply where a person who receives a certificate of election as a holder of a public office resigns prior to the beginning of the term of office and an incumbent still holds the public office.
- (5) A resignation is binding unless withdrawn in writing by the end of the third business day after the resignation is made.
- (6) Where the effective date of a resignation is less than 21 calendar days before the deadline for filing a nominating petition, declaration of candidacy or certificate of nomination necessary to fill the office at the general election next following the effective date of the resignation, and the deadline for withdrawing the resignation has passed, the filing officer for the office shall accept filings of nominating petitions, declarations of candidacy and certificates of nomination and the vacancy shall be filled at the general election next following the effective date of the vacancy.
- (7) This section does not apply to the office of Governor."