

W.G.B.

AGENDA COVER MEMO

AGENDA DATE: July 27, 2005
TO: Board of County Commissioners
DEPT: County Administration
PRESENTED BY: Melinda Kletzok, County Public Information Officer
AGENDA ITEM TITLE: COUNTY ADMINISTRATION – DISCUSSION –
County Slogan



I. QUESTION

Shall Lane County Government use road funds for new signage at gateway areas to the county, and what should be on these signs?

II. ISSUE OR PROBLEM

To put the County in conformance with what Oregon Department of Transportation does under the Oregon Administrative rules, whenever the County uses road funds for signs:

- "landscaped area or marker (which) may contain only the official name, logo and/or slogan of the city, county, or unincorporated community."

"See All of Oregon in Lane County," the official slogan of Convention and Visitor's Association of Lane County (CVALCO), has been proposed as a slogan for these signs. To be used, it should be adopted as Lane County Government's official slogan. Lane County has an existing slogan, in use since the creation of the new logo and production of a County DVD titled "Lane County Works for You." For consistency, this slogan has been used in subsequent materials.

III. DISCUSSION

A. Background

On January 6, 2003 Lane County Board of Commissioners adopted a modified County Logo policy (LM 2.701) to promote the County's brand identity. The slogan "Lane County Works for You" is being used in conjunction with the logo as part of communicating a cohesive identity for Lane County Government. This initiative is part of addressing the Strategic Plan's goal of improving citizen communication and

information. "See All of Oregon in Lane County" is the Convention and Visitor's Association Lane County (CVALCO) tag line.

The two slogans in question have two distinct audiences:

1) "Lane County Works for You" communicates to Lane County citizens, who pay taxes to run Lane County Government services. This tag line describes Lane County Government's relationship with its citizens.

2) "See All of Oregon in Lane County," speaks to tourists or visitors to Lane County. "See All of Oregon in Lane County" is currently CVALCO's tag line and conveys a "welcome" and promotional message about the area's many attractions.

B. Analysis

One of the requirements for using road fund money for signage of this nature is that the slogan or tag line used should be the County's official slogan. Usage of two different slogans may also be found to be an illegal expenditure of road funds, given that the probable allowance of a slogan on signage was to allow single, rather than multiple, messages to be conveyed.

In the event Lane County Government wishes to create a new official slogan or adopt one of the existing ones, it may wish to consider the timing and method required for this process.

C. Alternatives/Options

Four options are proposed:

OPTION 1:

Adopt "See All of Oregon in Lane County" as the County's slogan for citizen and visitor audiences and use that slogan on "gateway" road signs

OPTION 2:

Adopt "Lane County Works for You" as the County's slogan for citizen and visitor audiences and use that slogan on "gateway" road signs

OPTION 3:

Create and adopt a new slogan for all signage

Option 4:

Leave the signage as is

D. Recommendation

Option 4 – for five reasons:

1. "See All of Oregon in Lane County" is CVALCO's slogan. Citizens already have trouble differentiating between government agencies - having the same slogan would be confusing
2. The CVALCO slogan does not describe the relationship between Lane County and its citizens
3. The "Works for You" slogan does not address a welcoming message "gateway" road signage would require
4. Lane County has already been using "Lane County Government Works for You," in many materials. Consistency is important in conveying the County's identity
5. There is already existing signage welcoming visitors to Lane County

E. Timing

Should the Board of Commissioners select option 4, there is no follow-up required. Should another option be selected, a board order should be prepared and brought back to the Board of Commissioners for formal approval.

IV. IMPLEMENTATION

If option 4 is selected, there is no need for implementation

V. ATTACHMENTS

Attachment A – "Memo re: signage" from County Counsel

MEMORANDUM



LANE COUNTY
OFFICE OF LEGAL COUNSEL

To: Ollie Snowden, Director, Public Works
From: Marc Kardell Extension: 3301
Date: 6 April 2005
Re: Permissible Road Fund signage expenditures

Question Presented

May road funds be used to place "See All of Oregon in Lane County" signage in County rights-of-way?

Brief Answer

Should the County Commissioners adopt the above quoted language as the County slogan, expenditure of road funds would probably be permissible.

Discussion

Article IX, section 3a of the Oregon Constitution states that road funds "shall be used exclusively for the construction, reconstruction, improvement, repair, maintenance operation and use of public highways, roads, streets, and roadside rest areas."

The courts have construed this provision to mean that expenditure of road funds must "primarily and directly facilitate motorized vehicle travel." *Rogers v. Lane County*, 307 Or 534, 545 (1989). Signage that does not "primarily and directly facilitate" motor vehicle travel would not qualify. Here, signage that welcomes motorists to Lane County, and includes a slogan or logo, probably facilitates the traveling public sufficiently to qualify for road fund expenditures.

The Department of Justice released a comprehensive review of ODOT programs on January 31, 2001, which examined which ODOT programs utilizing road funds might be at risk given current Constitutional analysis. While finding that signage is generally a Constitutionally allowable expense, the DoJ also pointed out the "(d)esign elements (including signage) that do not support highway construction or operations or are not required, as a condition to construct the highway cannot be funded with highway funds."

The DoJ then examined several ODOT programs dealing with signage. Two of these are noteworthy:

The ODOT "Permits For Development On Highway Right-of-Way" program is probably closest to the question at hand. "That program allows for entryway highway development designed to welcome motorists into a community. The Oregon Administrative Rule implementing this program allows for a "landscaped area or marker (which) may contain only the official name, logo and/or slogan of the cit, county, or unincorporated community." The DoJ found that, while State road funds were used in administering this program, this was a permissible expenditure for right-of-way management.

The second program worth discussing here was titled "Sign Permits (Outdoor Advertising/Enforcement of Oregon Motorist Information Act)." That Program was summarized as follows:

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“ODOT enforces the Oregon Motorist Information Act, the purposes of which are to promote public safety, provide information to travelers and to preserve the natural beauty of the highways and adjacent areas.”

DoJ then found that:

“The program is at risk. The main purpose of the program, to preserve the natural beauty of the highways and adjacent areas, has nothing to do with primarily and directly facilitating motorized vehicle travel. Only the parts of the OMIA that involve highway safety are permissible uses of the Highway Fund. Examples of those are ORS 377.720 (interferes with or resembles traffic control sign or device) and 377.727 (distance from interchange, spacing), which account for only a small percentage of OMIA enforcement.”

From reviewing the case law and the DoJ analysis of various ODOT programs, it becomes apparent that right-of-way signage may or may not be an allowable road fund expense. Welcoming signage is clearly allowed, and it is probable that if the County were to add its logo or adopted slogan to such signage, those expenditures would survive Constitutional challenge. Advertising in and of itself, apart from an adopted slogan or logo, would be more problematic.

Conclusion

Lane County could expend road fund monies on the placement of signage in its rights-of-way at various entrance points to the County, and where such signage includes a welcome, slogan and/or logo, such signage would probably be a constitutionally permissible road fund expenditure.