

W. S. F.

**AGENDA COVER MEMO**

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**AGENDA DATE:** December 2, 2009  
**Memorandum Date:** November 25, 2009

**TO:** LANE COUNTY BOARD OF COMMISSIONERS

**DEPARTMENT:** LANE COUNTY OFFICE OF LEGAL COUNSEL

**PRESENTED BY:** Liane I Richardson, County Counsel

**AGENDA ITEM TITLE:** IN THE MATTER OF DISCUSSING THE PLACEMENT OF VARIOUS AMENDMENTS TO THE LANE COUNTY CHARTER ON THE MAY 18, 2010 BALLOT

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**I. MOTION**

No motion at this time; this is a report back to the Board for further discussion and possible action.

**II. AGENDA ITEM SUMMARY**

Several members of the Board of Commissioners have expressed interest in putting amendments to the Charter on the May 2010 ballot. These amendments take various forms; some bring the Charter into compliance with current state law, some are "cleanup"; not changing the effect of the Charter but simply making language changes, and some are new items or significant changes to existing sections.

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History** . The Lane County Charter was passed by the voters in November of 1962, and there have been many different amendments to the Charter over the years. There have also been suggestions made for additional language changes throughout the years, but because of the cost of elections, prior Boards have declined to put such measures on the ballot. The Board has decided to place a local option tax measure on the ballot in May to support Extension services, and as the cost of putting additional measures on the ballot is much less than the cost of putting the first measure on the ballot, several Commissioners felt that the time was right to discuss what, if any, proposed amendments to the Charter should be put on the May, 2010 ballot. Commissioners have asked staff to make numerous suggestions for changes to the existing Lane County Charter to either clean up existing language or add new language. There have been several discussions at Board meetings on the sections the Board of Commissioners wish to have addressed. This memo and attachments will address the various suggestions that have been made.

**B. Policy Issues** Having clear and concise direction in the Charter allows the County to function at the level necessary to provide services to the citizens of Lane County.

**C. Board Goals** The Board has expressed goals of being transparent in government, of trying to look at doing things differently, and of increasing efficiency within the organization. Many of the suggested amendments to the Charter addresses these goals.

**D. Financial and/or Resource Considerations** Placing a measure on the May 2010 ballot shall cost approximately \$60,000. The Board has already decided to place a measure

regarding the OSU Extension local option tax on the May 2010 ballot. Placing additional ballot measures on the ballot will increase the cost, but not dramatically. Depending upon the number of ballot measures, the County may see additional costs in ballot printing, printing of inserts, and the cost of filing ballot titles and explanatory statements in the voters pamphlet.

**E. Analysis** The Board has asked for proposed changes to the following sections of the Charter:

**Chapter IV, Section 19 Administrative Departments**

The Board has expressed interest in being able to be more flexible in how the County is structured. The current wording of the Charter requires that there be specified departments within the County. The County performs all of the functions listed, but not necessarily within the identified departments. In order to best serve the citizens of Lane County, a more fluid program based description of the County's functions, rather than department based description, is preferred by the Board.

**Chapter IV, Section 21 Appointive Administrative Officers and Employees**

The only changes to this section would allow the Board of Commissioners to designate a person to make changes to the functions of administrative officers and employees, and to assign functions to whatever administrative department the county administrator deems appropriate.

**Chapter IV, Section 22 Changes in Administrative Departments**

A couple of members of the Board of County Commissioners have indicated this section is confusing as written. I have provided two different options to the Board which may make this section more understandable.

**Chapter IV, Section 23 Juvenile Department**

This language has been deleted from this section and moved to Section 19 where it seems to fit better.

**Chapter IV, New section 23 Charter Review Committee**

This section would create a charter review committee. Although a charter change is not necessary for the Board to create a charter review committee, placing such a requirement in the charter would required such action every ten years (as this section is currently written). This section currently has the committee being formed in 2011, after the results of the census are available. The committee could be formed earlier, but staff would recommend that if the Board is contemplating forming a committee in 2010, it not put forward as many proposed charter amendments as is currently being considered.

**Chapter IV, Section 24 Qualifications**

This section is simply being modified to reflect that if there are state requirements for office, as there are for District Attorney and Sheriff, for example, those qualifications are also required by Charter.

**Chapter V, Section 27 Compensation for Services**

There are now three proposals available for the Board to review in regards to this section. Several members of the Board expressed concern that they are required to determine when and if they receive compensation increases, and that such a requirement puts them in a no-win situation. The three proposals for changes are: 1) have compensation increases for elected officials be based on the Portland-Metro CPI; 2) have an elected officials compensation board (which is what we currently use), but instead of the elected officials compensation board making recommendations to the Board of Commissioners for compensation increases, they have the ability to make such changes on their own, and 3) compensation for elected officials will be the average of compensation increases granted to all county employees as of July 1<sup>st</sup> of each year. There have been suggestions by Board members that the salaries for commissioners should be reset to what they currently are if a charter amendment to this section passes. I can include language in any of the above proposals to make that happen if the Board so directs.

Chapter VI, Section 29 Nomination and Election of County Officers

There are minor language changes proposed for this section in order to have the charter language comply with current state law regarding the nomination and election of county officers.

**F. Alternatives/Options**

The Board can place any, all or none of the proposed charter amendments on the May 2010 ballot. Each ballot measure increases the cost of the overall election, and if the Board wishes to place any of the ballot measures in the Voter's Pamphlet, there is a cost for that as well. The more ballot measures, the larger and heavier the ballots become. This adds costs to the printing and mailing of the ballots.

**IV. TIMING/**

Decisions need to be reached soon (within the next week or two) so that any ballot measures the Board wishes to place on the May ballot can be finalized and submitted to Elections in a timely manner.

**V. RECOMMENDATION**

If the Board wishes to establish a Charter Review Committee that is formed in 2010, I would suggest that no other changes be made to the Charter at this time. The Board does not need to place a ballot measure on the ballot in order to form a review committee, but that is certainly an option. If the Board wishes to establish a Charter Review Committee but not have it formed until after the census data is provided to the County, I would recommend moving forward with changes to at least Sections 24 and 29 to bring the Charter into compliance with state law.

**VI. ATTACHMENTS** Charter Sections with changes noted in legislative format

[HOME RULE CHARTER FOR LANE COUNTY, OREGON -  
Approved by the voters at the November 6, 1962, General Election]

CHARTER FOR LANE COUNTY, OREGON

PREAMBLE

We, the people of Lane County, Oregon, in order to avail ourselves of self determination in county affairs to the full extent permissible under the constitution and laws of the state, by this charter confer upon the county the following powers, subject it to the following restrictions, and prescribe for it the following procedures and governmental structure:

CHAPTER I

NAME, NATURE, BOUNDARIES, COUNTY SEAT

Section 1. NAME. The name of the county as it operates under this charter shall continue to be Lane County.

Section 2. NATURE AND LEGAL CAPACITY. From the time that this charter takes effect the county shall continue to be

- (1) an agency of the state and
- (2) a body politic and corporate

Section 3. BOUNDARIES. The boundaries of the county as it operates under this charter shall be the boundaries now or hereafter prescribed for the county by the laws of the state.

Section 4. COUNTY SEAT. The seat of government of the county as it operates under this charter shall continue to be in the city of Eugene.

## CHAPTER II

### POWERS

Section 5. GENERAL GRANT OF POWERS. Except as this charter provides to the contrary, the county shall have authority over matters of county concern to the full extent granted or allowed by the law of the United States or of the state of Oregon, as fully as if each power comprised in that general authority were specifically granted by this charter, including power to levy and collect taxes, to create and incur indebtedness, and to exercise any and all other powers conferred upon counties and their governing bodies by the statutes of the state.

Section 6. CONSTRUCTION OF POWERS. In this charter no mention of a particular power or enumeration of similar powers shall be construed to be exclusive or to restrict the authority that the county would have if the particular power were not mentioned or the similar powers not enumerated. The charter shall be liberally construed, to the end that, within the limits imposed by the charter and by the law of the United States and of the state, the county have all powers necessary or convenient for the conduct of its affairs, including all powers that counties may assume under the statutes of the state and under the provisions of the state constitution concerning county home rule. The powers shall be construed to be continuing powers.

Section 7. LOCAL SERVICES.

- (1) The board of county commissioners,
  - (a) upon the petition of 25 per cent of the legal voters of any area in the county or of 100 legal voters in the area, whichever number is the lesser, and
  - (b) upon the approval of a majority of the voters in the area, may establish the area as a local service district for the purpose of providing a county service of special benefit to persons and property in the area. The board shall prescribe by ordinance one or more methods for establishing such a district and for enlarging such a district already established. The ordinance shall prescribe one or more procedures by which legal voters in the territory proposed to be included in the district are afforded notice and hearing of establishment and enlargement of the district.
- (2) The board shall fix the boundaries of each such district on the basis of the territorial extent of the special benefit derived from the service.
- (3) The board shall be the governing body of the district.
- (4) A county service of special benefit to persons and property in an area established as a local service district pursuant to this section may be financed only by taxes, assessments, and charges specially levied in the area and by funds specially allocated by the state or the United States for one or more purposes of the district.
- (5) Legislative action that the board takes as governing body of a local service district shall be subject to the referendum upon petition of 10 per cent of the legal voters of the district. The board shall prescribe by ordinance one or more methods for exercising this power of referendum.

Section 8. INTERGOVERNMENTAL COOPERATION AND TRANSFER OF FUNCTIONS. The board of county commissioners may, on such terms as it deems to be in the best interests of the county, arrange by contract

- (1) for one or more functions of the county to be performed in cooperation with one or more units of local government in the county or one or more other counties or both,
- (2) for one or more functions of the county to be transferred to and performed by one or more units of local government in the county and
- (3) for the county to assume one or more functions of one or more units of local government in the county, provided any function thus assumed is a matter of county concern.

Section 9. PUBLIC IMPROVEMENTS.

- (1) Subject to the requirements of the other paragraphs of this section, the procedure for making, altering, vacating, or abandoning a public improvement of the county shall be governed
  - (a) by the general ordinances of the county, or,
  - (b) to the extent not so governed, by the applicable general laws of the state.
- (2) To the extent that the board of county commissioners finds that a public improvement specially benefits property in the vicinity of the improvement, the cost of the improvement shall be defrayed by special assessments levied on the property, and to the extent that the board finds that a public improvement is of benefit to the county generally, the cost of the improvement may be defrayed by revenue derived from other sources.
- (3) An order for action regarding a public improvement of the county shall indicate
  - (a) the extent to which the cost of the action is to be defrayed by special assessments on property to be specially benefited by the action and
  - (b) the extent to which the cost of the action is to be defrayed by revenues of the county derived from other sources.
- (4) Action by the board of county commissioners on a proposed public improvement to be financed in whole or in part by county revenues not derived from special assessments shall be subject to the referendum in the same manner as ordinances of the board.
- (5) Action by the board of county commissioners on a proposed public improvement to be financed in whole or in part by special assessments shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specially assessed for the improvement, provided written notice of the remonstrance is delivered to the board within 15 days after the action is ordered. After the suspension the board may proceed with the action. The word "owner" shall mean the record holder of legal title, except that if there is a purchaser of the land according to a recorded land sale contract, the purchaser shall be regarded as the owner.
- (6) The procedure for levying, collecting, and enforcing the payment of special assessments to be levied against real property on account of public improvements or other services shall be governed by general ordinance.

Section 10. WHERE POWERS VESTED. Except as this charter provides to the contrary, and subject to the initiative and referendum powers residing in the people of the county, all powers of the county, both legislative and administrative, shall be vested in the board of county commissioners. The administrative power of the board shall be exercisable by it or by persons under its authority.