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AGENDA COVER MEMO

AGENDA DATE: 1 April, 2009
TO: Board of County Commissioners
DEPARTMENT: County Counsel
PRESENTED BY: Liane Richardson



AGENDA TITLE: ORDER / _____ IN THE MATTER OF CLARIFYING THE PROCESS FOR THE APPOINTMENT OF MEMBERS TO ADVISORY COMMITTEES, BOARDS AND COMMISSIONS AND DIRECTING STAFF TO BRING FORWARD MODIFICATIONS TO LANE MANUAL

I. MOTION

Order / _____ In The Matter Of Clarifying the Process For The Appointment Of Members To Advisory Committees, Boards and Commissions and Directing Staff To Bring Forward Modifications To Lane Manual

II. AGENDA ITEM SUMMARY

The appointment process for members of Board of Commissioner advisory committees, boards and commissions is varied and creates confusion for staff, the Board, citizens and the members of the advisory committees, boards and commissions. It has been suggested that a more uniform approach to appointments and terms be considered. The rest of this memo will focus mostly on advisory committees, as those are the appointments where there is the most flexibility for Commissioners to change the way current appointments are made.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Lane Manual 3.506 allows the Board of Commissioners to create a new committee, and to assign the committee a specific charge by Board Order. The Board also establishes the qualifications for membership, terms of office and time limits to be included in the committee's bylaws and summarized in Lane Manual Chapter 3.

Currently, all vacancies for committees must be advertised for 30 days unless there was a recent posting (6 months) for the same committee and an adequate pool of candidates still exists. Incumbents wishing to remain on the committee shall submit a new application to be considered for reappointment. Only those citizens who have formally applied for membership within the proper timeframe and who have the proper qualifications as specified by the Board may be considered for appointment to an advisory committee. Although Lane Manual 3.506(e) states that unless otherwise stated, appointments shall be for a term of four years, ending on the last day of the month specified for that committee, in reality, the manner of appointment, the length of terms, and the type of terms vary widely from committee to committee, to the extent that there really is no general rule as to appointments. The inconsistency in how appointments are made to the various advisory boards has created quite a bit of disagreement and misunderstandings between staff, advisory committee members, citizens and the Board of County Commissioners as to who has the authority to appoint and remove advisory committee members.

B. Policy Issues

There are several policy issues presented. The first is whether or not the Board of Commissioners wishes to have some consistency in the way it makes appointments. Internal consistency makes it much easier to monitor advisory committee openings, to recruit for positions, and clarifies the rules for anyone involved with advisory committees. The second policy issue is to determine how much of its power the Board of Commissioners wishes to delegate. In some instances, the advisory board itself appears to be given the ability to appoint members to the committee, with no provisions for the Board of County Commissioners to approve the appointee or remove the appointee if removal appears to be appropriate. A third policy issue surrounds how much authority individual Commissioners should have in the appointment process. Some committees allow each Commissioner to appoint a member to the committee. Some committees require the Board of County Commissioners as a whole to appoint members. A recent letter from the LCAS advisory committee states that if a Commissioner hasn't filled a position within a certain timeframe, the LCAS advisory committee should be able to make the appointment.

C. Board Goals

The advisory committees meet the Board's goal of improving public service. The committees focus on specific areas of the County and report back to the Board of Commissioners with their recommendations and findings per the specific charge they were given upon creation of that committee. The Board has also adopted a Good Governance Board Order, which attempts to streamline the process, make it more transparent, and easier to understand for the citizens of our community. Consistency in regards to advisory committee appointments and terms will help achieve this goal.

D. Financial and/or Resource Considerations

The financial and/or resource considerations are minimal.

E. Analysis

There are 8 mandated advisory committees. Those committees have appointment requirements spelled out in the legislation that created those committees. Of the 8 mandated advisory committees, many of the positions are assigned to specific persons or titles (Sheriff, for instance). However, the Board of Commissioners has the authority to appoint all of the non-specified members for each of the mandated advisory committees except for one citizen member of the Farm Review Board, who shall be appointed by the Assessor. The terms range from 1 year to 4 years.

There are an additional 10 nonmandated advisory committees. Some committee members, such as five of the members of the Commission on Human Rights, are appointed by their Commissioner to represent the Commissioner's district. The other 6 appointees are at-large appointees, appointed by the Board of Commissioners as a whole. Some committees, such as the LCAS advisory committee, allow the committee members to appoint representatives directly to the committee. Terms range from "at the will of the Commissioner who appointed them" to 4 years. For some committees, there are differences between the term limits, depending upon whether the member was appointed by a single Commissioner, the Board of Commissioners, or by some other means.

There are also numerous Boards and Commissions that the Board of Commissioners appoint representatives to. However, most of those Boards and Commissions have rules regarding who can be appointed, and the Board of Commissioners have little to no authority to change the appointment process in these cases.

F. Alternatives/Options

1. Make no changes to the appointment process or term limits. In some cases, this means that the Board of Commissioners have no ability to remove or even comment on the citizen members appointed to the advisory committees.
2. Streamline the appointment process and make it as consistent as possible. Possible ways to do this are:
 - a. In all circumstances where the Board of Commissioners can make changes, change the appointment process in one of the following ways:
 1. Commissioners make recommendations to the entire Board

whenever a position becomes vacant on an advisory committee, and then the entire Board votes on the appointment.

2. In circumstances where there are 5 citizen appointees, each Board member appoints his or her own appointee.
 3. In circumstances where there are more than 5 citizen appointees, a mixture of Board member specific appointees and at-large appointees are appointed. The process for at-large appointees can either consist of the Board as a whole participating in the interview process, the County Administrator conducting the interview process and making recommendations to the Board, or the other committee members conducting the interview process and forwarding on a list of their recommendations to the Board.
- b. Designate exceptions to whatever rule is established, and clearly delineate the exceptions and the reasons for the exceptions.
3. Leave the appointment process as it is for the various committees, and/or whenever allowed, change the term limits to be more consistent. Possible suggestions include:
 - a. All appointees serve at the will of the Commissioner who appointed them, or the Board of Commissioners if appointed by the full Board.
 - b. All appointees, regardless of the advisory board they are appointed to or the manner of appointment, are subject to the same term limit (for instance, two years), staggered so that all members do not end their terms at the same time.
 - c. Appointees appointed by a single commissioner serve a term that is identical to the appointing commissioner. Appointees appointed by the Board as a whole serve a different term (for instance, three years).
 - d. Leave the term limits as they currently exist, but add language that allows the Board of Commissioners to remove committee members for any reason or no reason at all with a majority vote.

G. Recommendation

Staff recommends that in order to achieve consistency, changes be made to both the appointment process and the terms currently in place for advisory committees. Staff would recommend that all advisory committee members be

appointed by the Board of Commissioners. Staff would advise against delegating the power of appointment of advisory committee members to current committee members. Staff would recommend that either assign the County Administrator the task of conducting interviews and forwarding on recommendations to the Board for appointments, or involve the Advisory Boards in the interview phase, with recommendations for appointments being made to the Board.

As for terms of appointment, staff would recommend that all appointees serve at the will of the Commissioner who appointed them, but not for longer than 4 years without reappointment. If the appointee was an at-large appointee, they shall serve at the will of the Board of Commissioners, but not for longer than 4 years without reappointment. There should be some provision for the removal of committee members if removal is warranted. Not having such a provision may put the County in a situation where it becomes liable for the actions of a committee member that were viewed as legally risky, but where there was no process in place to remove that committee member when the risk of liability became known.

There currently is a term limit of two terms for all advisory committee members. The Board of Commissioners has the ability to overrule this term limit if they deem it in the best interests of the County. Staff would recommend leaving this language as it currently exists.

H. Timing/Implementation

If the Board approves changes to the appointment process, Legal Counsel will work to revise Lane Manual language to more clearly indicate the appointment process for all advisory committees.

IV. ATTACHMENTS

Board Order

THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDER:) IN THE MATTER OF CLARIFYING THE PROCESS FOR THE
) APPOINTMENT OF MEMBERS TO ADVISORY
) COMMITTEES, BOARDS AND COMMISSIONS AND
) DIRECTING STAFF TO BRING FORWARD MODIFICATIONS
 TO LANE MANUAL

WHEREAS, there is inconsistency in the manner of appointments to advisory committee members, boards and commissions; and

WHEREAS, this inconsistency has led to disagreement, frustration, and confusion for staff, advisory committee members, the public and the Board of County Commissioners; and

WHEREAS, consistency in the appointment process and terms for advisory committee members will decrease confusion and disagreement, and will allow for more transparency; and

NOW THEREFORE IT IS HEREBY RESOLVED AND ORDERED that the appointment process shall be changed as follows:

- 1) Unless otherwise provided by law, if a Committee is made up of five (5) members, each member shall be appointed by the Commissioner who represents their district. The appointee shall serve at the will of the Commissioner making the appointment, but for no longer than four (4) years without reappointment.
- 2) Unless otherwise provided by law, if a Committee is made up of more than 5 members, five of the members shall be appointed using the process outlined above. The remaining members shall be at-large members. The other current appointees to the advisory committee shall conduct interviews per the Lane Manual and shall forward recommendations on to the Board of Commissioners. The Board of Commissioners shall determine whom to appoint or whether to reopen the process. The terms for at-large appointees shall be at the will of the Board of Commissioners, but for no longer than four years without reappointment.
- 3) Unless otherwise provided by law, if a Committee is made up of less than 5 members, or the number of appointees the Board of Commissioners can appoint is less than 5, the process outlined in #2 above for the selection of at-large appointees shall be followed.

- 4) To the extent allowable by law and other provisions governing the appointment process for boards and commissions, the above process shall be followed when making appointments to those entities.

IT IS FURTHER ORDERED that staff be directed to review the Lane Manual and bring forward modifications for review by the Board.

IT IS ALSO FURTHER ORDERED that all advisory committees review their by-laws and bring forward modifications for review by the Board, consist with these changes.

DATED this ____ day of April, 2009.

Peter Sorenson, Chair
Lane County Board Of Commissioners