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AGENDA COVER MEMORANDUM

AGENDA DATE: June 4, 2003

PRESENTED TO: Board of County Commissioners

PRESENTED BY: Greta Utecht, Human Resources Manager

AGENDA TITLE: **IN THE MATTER OF AMENDING CHAPTER 2 OF THE LANE MANUAL TO ADOPT PROVISIONS IMPLEMENTING THE UNCLASSIFIED SERVICES PORTION OF THE CHARTER (LM 2.190 AND 2.191)**

I. MOTION

MOVE APPROVAL OF ORDER 03-_____ IN THE MATTER OF AMENDING CHAPTER 2 OF THE LANE MANUAL TO ADOPT PROVISIONS IMPLEMENTING THE UNCLASSIFIED SERVICES PORTION OF THE CHARTER (LM 2.190 AND 2.191)

II. ISSUE

Current Lane Manual and Administrative Procedures Manual (APM) rules do not allow departments to hire unclassified employees in a temporary, limited or flexible capacity for more than 520 hours or three months in any fiscal year. This has resulted in the organization's inability to address certain needs such as special project work requiring more than 520 hours but less than 2080 hours; sporadic or one-time-only work requiring more than 520 hours and special expertise not described in the County's classification plan, and situations arising from the sudden retirement of many County employees.

Recent changes in PERS (Oregon's Public Employee Retirement System) proposed by the State Legislature have precipitated more retirements this calendar year than were anticipated. In addition to the 19 employees who have already retired in calendar year 2003, 53 more have given notice to Human Resources that they intend to retire by the end of May. (This compares with a total of 44 employees who retired in calendar year 2002.) We also anticipate that another large group will be leaving by November 30, in order to

avoid being impacted by PERS changes that will take effect on January 1, 2004. As a result, departments are facing major vacancies and concerns about how to manage their operations and services while the vacant positions are recruited for and filled.

III. DISCUSSION

A. Background

The Lane Charter defines those persons who are employed for not longer than three months during a fiscal year as unclassified employees. County Counsel has interpreted this three-month period to equate to 520 hours in a fiscal year. Extra help positions are not identified as specific positions in our budget, do not need approval from Human Resources or need to be posted prior to hiring. Therefore, hiring someone in an extra help position for non-represented functions, not to exceed 520 hours does not violate the Charter, the Lane Manual, or the APM.

However, should a department wish to retain the services of someone for longer than 520 hours and the conditions warrant it (e.g., special project needing more time, covering for a regular employee on military, disability or family medical leave), there is currently no position type in the Lane Manual that allows it.

The approaching retirement exodus was the catalyst that motivated Human Resources' and County Counsel's examination of the problem. In reviewing the options available to department directors for effecting a smooth transition in personnel or while examining other organizational options (e.g., process improvement, reorganization, reclassification, etc.), it became clear that there was a need to have some way of hiring certain retirees in a *limited and structured capacity* in order to provide departments with the time needed to determine how best to utilize the vacancy created by the retirement.

B. Analysis

Employees of Lane County fall into one of two categories established by the Lane County Charter, i.e., the classified service and the unclassified service. Under the Charter, the classified service includes all offices and positions in the government of the County that are not included in the unclassified service.

The classified service was established to provide systematic, equitable and uniform principles governing matters pertaining to wages, hours, benefits and other employment relations matters, and as such, includes the majority of County employees. As a part of the classified service, County employees receive a full range of benefits (e.g., medical, dental, vision and life insurance; time management accrual and paid holidays) as well as due process rights that protect their employment.

The unclassified service is a means of implementing limited, specialized, or unique forms of assistance to the overall mission of County government. The Lane County

Charter Section 28(2) is very specific as to the types of employee in the UNclassified service. They are:

1. Elective Officers of the County
2. Heads of County Departments
3. Members of County Boards and Commissions
4. Extra-help Employees
5. Professional Employees
6. Joint Employees
7. Unskilled Workers
8. Part-time Employees
9. Independent Contractors
10. Uncompensated Volunteers.

Of the above, only Extra Help employees are defined and allowable under current APM provisions. Using the definitions set forth in the Charter, County Counsel and Human Resources explored the use of Professional and Part-time Employee types in order to provide more options and flexibility to departments as they attempt to respond to current operational situations. The proposed changes to the Lane Manual would establish two new sections that augment the Charter's definitions of positions in the unclassified service, and establish policies for the use of these positions. Key components are as follows:

1. Professional Employees are persons employed by the County for professional, scientific, technical or expert services. Compensation is negotiable, and may be on an hourly, daily or per job basis. Employment of persons in this category shall be either of an occasional character, i.e., sporadic or intermittent and not on a regular basis each week, or of an exceptional character, i.e., for a particular project or situation of a limited duration.
2. Part-time Employees are persons employed by the County on a part-time basis and paid by the hour or day. Employment of persons in this category can be for the purpose of fulfilling the duties of a classified position for a period of time not to exceed 12 months in duration during which efforts are made to either fill the classified position or to evaluate the need or duties of the classified position or for the purpose of completing a specific identified project within an identified and limited period of time. "Part-time" is defined as less than a total of 2080 hours in a 12 month period, where the work is performed either on a regular basis at a rate of less than 40 hours per week or on a sporadic basis at a rate that may on occasion exceed 40 hours per week but where the total is less than 2080 hours in a 12 month period.
3. Benefits. Unless specified elsewhere or above, there shall be no benefits paid or provided to members of the unclassified service. Statutory benefits shall be paid only as required as a function of compensation.

Having these two unclassified employee types available will enable departments to deal with unexpected retirements, terminations, short-term disability leaves and other unplanned-for absences, as well as being able to address special project needs or situations calling for unusual expertise. Bargaining unit provisions will prevent their use in place of represented positions.

C. Alternatives/Options

1. Approve the changes to Lane Manual by approving proposed sections 2.190 and 2.191.
2. Do not approve the proposed changes.

D. Recommendation

Human Resources and County Counsel recommend approval of Option 1.

IV. IMPLEMENTATION/FOLLOW-UP

Following Board action, Administrative Procedures will be drafted in accordance with the new Lane Manual provisions and Human Resources will implement the new position types and provide training to supervisors and managers.

V. ATTACHMENT

Board Order

Proposed Lane Manual sections 2.190 and 2.191, legislative format

Proposed Lane Manual sections 2.190 and 2.191, regular format

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AMENDING CHAPTER 2 OF
THE LANE MANUAL TO ADOPT PROVISIONS IM-
PLEMENTING THE UNCLASSIFIED SERVICES
PORTION OF THE CHARTER (LM 2.190 AND 2.191)

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

Lane Manual Chapter 2 is hereby amended by removing, substituting and adding the fol-
lowing sections:

REMOVE THESE SECTIONS

NONE

INSERT THESE SECTIONS

2.190 and 2.191

as located on pages 2-14 through 2-16
(a total of 3 page)

Said sections are attached hereto and incorporated herein by reference. The purpose of
these substitutions and additions is to adopt Lane Manual provisions to implement the unclassified
services portion of the Lane County Home Rule Charter (LM 2.190 and 2.191).

Adopted this _____ day of _____ 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 5/1/03 Lane County



OFFICE OF LEGAL COUNSEL

information listed above. Due to budget constraints, it is not feasible for the County to review each specific record or type of data prior to such a potential disclosure through the County website. It is the County's intent to only distribute on the County website types of data or documents:

(a) Where a majority of the data or documents would not contain personal information of the type listed above, and or,

(b) Where a majority of the data or documents may include such personal information in a common location which can be deleted by that common field. The purpose of this policy is to balance the competing objectives of making public documents and data from those documents more readily available on the County website, but limiting the occurrence of disclosure of personal information not otherwise prohibited from disclosure. The County shall determine, in its discretion, the types of data and documents which meet the criteria above. Nothing in this policy is intended to create a cause of action arising out of the County's implementation of this policy.

(2) Non-Disclosure for Personal Safety Reasons. Public records information distributed from the County Internet website will comply with ORS 192.445. In certain instances, this will require the County Internet website to not release or make available a specific public record indicating the home address or telephone number of an individual that has made a request and has demonstrated there is a danger to personal safety or to the safety of a family member residing with them if the public record is disclosed.

(3) Approval Process Distributing Public Records Information. Lane County Technology Management Team (TMT) is delegated the responsibility to review and approve the types of data and documents to be distributed on the County Internet website in accordance with this policy, including consideration of budgetary constraints. Departments will submit requests for Internet distribution approval per policy guidelines.

(4) Related Policies, Guidelines or Standards. The County Administrator is the delegated authority to adopt administrative procedures and guidelines to implement this policy. *(Revised by Order No. 02-3-12-4, Effective 3.12.02)*

PERSONNEL RULES FOR UNCLASSIFIED SERVICE

2.190 General Statement of Policy.

(1) Purpose. The Lane County Home Rule Charter, Section 28(2) described the offices and positions that provide the unclassified service of the County. The purpose of the provisions below is to augment the descriptions of those positions in the Charter, to identify appropriate use of the unclassified service, and to provide authority for the County Administrator to adopt appropriate administrative procedures in implementation.

(2) Delegation. The County Administrator is delegated authority to adopt procedures to implement and further regulate the use of the unclassified employment service.

(3) Relation to Classified Service. It is recognized that under the Charter, the classified service includes all offices and positions in the government of the County that are not included in the unclassified service. The Board interprets this to mean that the majority of County employment should fall within the classified service, and that the unclassified service is a means of implementing limited, specialized, or unique forms of assistance to the overall mission of County government.

2.191 Definitions and Policies.

(1) Definitions. The descriptions of the unclassified service in Charter Section 28(2) are further enhanced below.

(a) Elective Officers of the County. These are the elected County Commissioners, the Sheriff, the Assessor, and the Justices of the Peace. Compensation shall be as set by the Board.

(b) Heads of County Departments. See Lane Manual 3.020, et al. Compensation shall be as set by the appointing authority.

(c) Members of County Boards and Commissions. Unless provided by the appointing authority, there shall be no compensation.

(d) Extra-help Employees. These are nonrepresented positions appointed for a special or temporary purpose, not to exceed 520 hours or three months in a fiscal year, whichever is longer. Compensation is an hourly rate determined at the time of appointment.

(e) Professional Employees. These are persons employed by the County for professional, scientific, technical or expert services. Compensation is negotiable, and may be on an hourly, daily or per job basis. Employment of persons in this category shall be either of an occasional character, i.e., sporadic or intermittent and not on a regular basis each week, or of an exceptional character, i.e., for a particular project or situation of a limited duration.

(i) Professional services are those provided by an employee who has extensive knowledge, training and experience of a subject that is practiced as a permanent career.

(ii) Scientific services are those provided by an employee who has extensive knowledge, training and experience in the methods or principles of a scientific discipline and is hired to apply those skills to a specific project.

(iii) Technical services are those provided by an employee who has extensive knowledge, training and experience in the techniques and practical application of those skills to a mechanical or scientific subject.

(iv) Expert services are those provided by an employee who has a special skill or knowledge representing mastery of a particular subject where the employee is hired to apply that mastery to a specific project.

(f) Joint Employees. These are persons employed jointly by the County and another governmental entity. Compensation is to be determined by the joint employers.

(g) Unskilled Workers. These are persons employed by the County for work that requires no prior training or skill and for which they are paid an hourly rate. Persons employed in this category will work for less than half time. This means they will work for less than 20 hours per week average over the duration of the time for which they are hired.

(h) Part-time Employees. These are persons employed by the County on a part-time basis and paid by the hour or day. Employment of persons in this category can be for the purpose of fulfilling the duties of a classified position for a period of time not to exceed 12 months in duration during which efforts are made to either fill the classified position or to evaluate the need or duties of the classified position or for the purpose of completing a specific identified project within an identified and limited period of time. "Part-time" is defined as less than a total of 2080 hours in a 12 month period, where the work is performed either on a regular basis at a rate of less than 40 hours per week or on a sporadic basis at a rate that may on occasion exceed 40 hours per week but where the total is less than 2080 hours in a 12 month period.

(i) Independent Contractors. These are persons employed by the County who meet all other legal requirements of being independent contractors and who perform work as independent contractors for the County for a temporary or part-time service.

(j) Uncompensated Volunteers.

- (2) Compensation. Compensation shall be as provided in the definition above.
- (3) Benefits. Unless specified elsewhere or above, there shall be no benefits paid or provided to members of the unclassified service. Statutory benefits shall be paid only as required as a function of compensation.
- (4) Duration. Except for the elective officers, members of the unclassified service serve at will.
- (5) Behavior. Persons employed in the unclassified service shall be expected to comply with personnel policies (and procedures implementing them) that are designed to encourage respectful behavior among employees and with members of the public or that are designed to reduce liability for the County. These include, but are not limited to, the policies described in LM 2.380 Drug Free Work Place Policy, LM 2.382 Sexual Harassment Policy, LM 2.384 Workplace Violence Policy and LM 2.390 through 2.395 Diversity Policy.

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