

W.S.C.I.

Memorandum Date: 13 July 2010
Order Date: 28 July 2010

TO: Board of County Commissioners
DEPARTMENT: County Counsel
PRESENTED BY: Marc Kardell, Assistant County Counsel
AGENDA ITEM TITLE: ORDER 10-7-28-____ / In the Matter of Amending Lane Manual Chapter 3 Moving County Clerk Functions from Management Services to the Office of Legal Counsel (LM 3.064, LM 3.082, and LM 3.084)

I. MOTION

MOVE TO AMEND LANE MANUAL 3.064, LM 3.082, AND LM 3.084 TO MOVE THE COUNTY CLERK'S FUNCTIONS FROM MANAGEMENT SERVICES TO THE OFFICE OF LEGAL COUNSEL

II. DISCUSSION

A. Background/Analysis

The Office of Legal Counsel of Lane County has recently taken over several of the functions of the County Clerk. This amendment of Lane Manual is designed to formalize the transfer of those functions. Specifically, County Counsel is taking over those responsibilities under state law of Elections and the duties of the County Clerk not otherwise assigned to Management Services, including recording and support of the Board of Property Tax Appeals. That latter department retains the functions of Finance Officer, including budget and finance functions.

B. Options

Approve the Order
Reject the Order
Otherwise direct changes in the functions of the two affected departments.

C. Recommendation

Approve the order to move the County Clerk's functions from Management Services to the Office of Legal Counsel.

III. ATTACHMENTS

Board Order

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.

IN THE MATTER OF AMENDING LANE MANUAL
CHAPTER 3 MOVING COUNTY CLERK
FUNCTIONS FROM MANAGEMENT SERVICES
TO THE OFFICE OF LEGAL COUNSEL (LM
3.064, LM 3.082 AND LM 3.084)

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

Lane Manual Chapter 3 is hereby amended by deleting, substituting, and adding the following section:

DELETE THIS SECTION

3.064
as located on pages 3-6 through 3-7
(a total of 2 pages)

3.082 and 3.084
as located on pages 3-10 through 3-11
(a total of 2 pages)

INSERT THIS SECTION

3.064
as located on pages 3-6 through 3-7
(a total of 2 pages)

3.082 and 3.084
as located on pages 3-10 through 3-11
(a total of 2 pages)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to amend Lane Manual Chapter 3 moving County Clerk functions from Management Services to the Office of Legal Counsel (LM 3.064, LM 3.082 and LM 3.084)

Effective this _____ day of _____ 2010.

William A. Fleenor, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 7/2/10 Lane County

OFFICE OF LEGAL COUNSEL

OFFICE OF LEGAL COUNSEL

3.060 Definitions.

As used in this subchapter:

"Office" means the Office of Legal Counsel of Lane County, which shall be a Staff Department of the Office of the Board of County Commissioners.

"County Counsel" means the attorney assigned to head the Office of Legal Counsel of Lane County.

"Department" includes, when used elsewhere in this Manual and Lane Code when not inconsistent with the context, the Office of Legal Counsel of Lane County. *(Revised by Order No. 00-1-26-7, Effective 1.26.00)*

3.062 County Counsel.

(1) The County Counsel shall be appointed by the Board.

(2) The Office shall be so organized and employ such personnel as in the judgment of the County Counsel will most efficiently and economically carry out the functions of the Office and discharge its responsibilities in the best interest of the people of Lane County, subject at all times and in all respects to the direction of the Board, the Lane County budget, and other provisions more specifically included herein.

(3) Except as otherwise provided in this Manual, all Office personnel shall be appointed and removed by the County Counsel in accordance with general personnel procedures and policies of Lane County.

(4) The County Counsel may perform any act authorized or from time to time authorize and direct any employee of the Office to perform any such act upon such terms as the County Counsel may prescribe, subject to the requirements of law. Any such delegation of authority need not be in writing or otherwise formalized except where required by law or order of the Board. *(Revised by Order No. 00-1-26-7, Effective 1.26.00)*

3.064 Functions.

The function of the Office of Legal Counsel is to serve as attorney for County government and shall include, but not be limited to, the following specific functions as is consistent with budget limitations:

(1) Serve as primary legal advisor to the Board of County Commissioners.

(2) Investigate and manage claims that are made against the County and its employees and defend County officers or employees as required by statute, in any action for damages based on an alleged wrongful act or omission in performance of official duty, except as otherwise directed by the Board.

(3) Defend actions and suits to which the County is a party and such proceedings as resources permit.

(4) Upon approval of the Board prosecute actions and suits to which the County is a party and such proceedings as resources permit.

(5) Upon request, may advise County officers on legal questions that may arise.

(6) Performance of the duties outlined in LM 3.064(1)-(6) above include:

(a) Attending meetings of Board as it may request.

(b) Approving formal ordinances, orders and actions of the Board as to form (legal sufficiency).

(c) Serving as legal advisor for/to the Planning Commission.

(d) Representing the Assessor (Director, Department of Assessment and Taxation) before the Tax Court in significant tax cases.

(e) Drafting and assisting in drafting of County charter amendments, ordinances, orders, contracts, deeds and other formal documents.

(f) Advising and, as necessary, appearing before the County Infractions Section.

(g) Assisting in collection of delinquent accounts, including proceeding to judgment and execution.

(h) Assisting in lease and acquisition of real property by purchase or condemnation.

(i) Drafting ballot titles.

(j) Serving as legal advisor to the Fair Board.

(k) Potential conflicts of interest within the Office of Legal Counsel shall be handled in accordance with LM Chapter 61.

(l) Maintain the Lane Code and Lane Manual.

(7) Subject to the exercise of discretion regarding ethical considerations on the part of the County Counsel, the duties of the Office of Legal Counsel generally shall be performed in the following order of priority:

(a) Litigation.

(b) Requests of or advice to the Board and elected officials.

(c) Requests of and advice to the County Administrator.

(d) Requests of and advice to the Department Directors.

(8) Administer the Lane County Law Library program.

(9) Be responsible for the functions of the County Clerk under general state law with respect to elections and records and any duties assigned to County Clerk by state law not otherwise specified. The Department shall also provide staff support for the Board of Property Tax Appeals. *(Revised by Order No. 00-1-26-7, Effective 1.26.00)*

DEPARTMENT OF MANAGEMENT SERVICES

3.080 Definitions.

As used in this subchapter:

"Department" means the Department of Management Services of Lane County.

"Director" means the Director of the Department of Management Services. *(Revised by Order No. 98-4-1-11; Effective 4.1.98)*

3.082 Director.

(1) Under the administrative direction of the County Administrator, the head of the Department shall have the title of Management Services Director of Lane County.

(2) The Director shall have the responsibility for the management of the Management Services Department and the "Functions" as stated below.

(3) The Director shall also have the titles of Finance Officer and Treasurer of Lane County, and such other titles as are authorized under state law for use by the County Clerk in performing the functions described below. The Director may further delegate such authority in writing.

(4) The Director shall have the authority to authorize and issue refunds for fines, fees or excess payments, except for taxes and for payments made to the Department of Public Works on applications denied or not acted upon by request of the applicant.

(5) The Director shall be responsible for developing procedures for the uniform application of all budget and financial policies consistent with the law.

(6) The Director shall perform such additional duties or assignments as may be delegated by the County Administrator or the Board. *(Revised by Order No. 98-4-1-11; Effective 4.1.98)*

3.084 Functions.

The Department shall perform and be responsible for the following functions:

(1) Finance. The Department shall be responsible for the financial operations of the County to maintain accuracy, economy and appropriate protection of public funds, and for performing the functions of County Treasurer and County Clerk under general state law with respect to financial matters. The Department shall manage the receipt of cash, investment of monies, disbursement of funds for payment of claims and payroll, handling of trust funds, maintenance of appropriate records of all financial activities, auditing of accounts and shall report as necessary to the Board or as otherwise described by law.

(2) Purchasing. The Department shall be responsible for developing and administering appropriate bid, contract award, purchasing and other procedures and systems for a centralized purchasing and contracts management program.

(3) Properties. The Department shall be responsible for managing the real estate functions of the County, including negotiating leases on behalf of the County, supervising its rented properties, selling surplus property as directed by the Board and managing the inventory of all County-owned property other than that in the road right-of-way or purchased with Road Funds. The Department shall also be responsible for the facilities maintenance and planning functions for all County facilities.

(4) Other Functions. The Department shall be responsible for such additional functions as the County museum, print shop, a mail and courier system, data processing maintenance and applications to support the County budget and financial systems and position controls, and any other functions assigned by the County Administrator or the

Board of Commissioners. *(Revised by Order No. 00-4-25-14, Effective 4.25.00; 06-11-29-4, 11.29.06; 07-5-9-5, 5.9.07)*

OFFICE OF LEGAL COUNSEL

3.060 Definitions.

As used in this subchapter:

"Office" means the Office of Legal Counsel of Lane County, which shall be a Staff Department of the Office of the Board of County Commissioners.

"County Counsel" means the attorney assigned to head the Office of Legal Counsel of Lane County.

"Department" includes, when used elsewhere in this Manual and Lane Code when not inconsistent with the context, the Office of Legal Counsel of Lane County. *(Revised by Order No. 00-1-26-7, Effective 1.26.00)*

3.062 County Counsel.

(1) The County Counsel shall be appointed by the Board.

(2) The Office shall be so organized and employ such personnel as in the judgment of the County Counsel will most efficiently and economically carry out the functions of the Office and discharge its responsibilities in the best interest of the people of Lane County, subject at all times and in all respects to the direction of the Board, the Lane County budget, and other provisions more specifically included herein.

(3) Except as otherwise provided in this Manual, all Office personnel shall be appointed and removed by the County Counsel in accordance with general personnel procedures and policies of Lane County.

(4) The County Counsel may perform any act authorized or from time to time authorize and direct any employee of the Office to perform any such act upon such terms as the County Counsel may prescribe, subject to the requirements of law. Any such delegation of authority need not be in writing or otherwise formalized except where required by law or order of the Board. *(Revised by Order No. 00-1-26-7, Effective 1.26.00)*

3.064 Functions.

The function of the Office of Legal Counsel is to serve as attorney for County government and shall include, but not be limited to, the following specific functions as is consistent with budget limitations:

(1) Serve as primary legal advisor to the Board of County Commissioners.

(2) Investigate and manage claims that are made against the County and its employees and defend County officers or employees as required by statute, in any action for damages based on an alleged wrongful act or omission in performance of official duty, except as otherwise directed by the Board.

(3) Defend actions and suits to which the County is a party and such proceedings as resources permit.

(4) Upon approval of the Board prosecute actions and suits to which the County is a party and such proceedings as resources permit.

(5) Upon request, may advise County officers on legal questions that may arise.

(6) Performance of the duties outlined in LM 3.064(1)-(6) above include:

(a) Attending meetings of Board as it may request.

(b) Approving formal ordinances, orders and actions of the Board as to form (legal sufficiency).

(c) Serving as legal advisor for/to the Planning Commission.

(d) Representing the Assessor (Director, Department of Assessment and Taxation) before the Tax Court in significant tax cases.

At right margin indicates changes
Bold indicates material being added
Strikethrough indicates material being deleted

LEGISLATIVE
FORMAT

~~3.064-3.080~~

Lane Manual

~~3.064-3.084~~

(e) Drafting and assisting in drafting of County charter amendments, ordinances, orders, contracts, deeds and other formal documents.

(f) Advising and, as necessary, appearing before the County Infractions Section.

(g) Assisting in collection of delinquent accounts, including proceeding to judgment and execution.

(h) Assisting in lease and acquisition of real property by purchase or condemnation.

(i) Drafting ballot titles.

(j) Serving as legal advisor to the Fair Board.

(k) Potential conflicts of interest within the Office of Legal Counsel shall be handled in accordance with LM Chapter 61.

(l) Maintain the Lane Code and Lane Manual.

(7) Subject to the exercise of discretion regarding ethical considerations on the part of the County Counsel, the duties of the Office of Legal Counsel generally shall be performed in the following order of priority:

(a) Litigation.

(b) Requests of or advice to the Board and elected officials.

(c) Requests of and advice to the County Administrator.

(d) Requests of and advice to the Department Directors.

(8) Administer the Lane County Law Library program.

(9) Be responsible for the functions of the County Clerk under general state law with respect to elections and records and any duties assigned to County Clerk by state law not otherwise specified. The Department shall also provide staff support for the Board of Property Tax Appeals. (Revised by Order No. 00-1-26-7, Effective 1.26.00)

DEPARTMENT OF MANAGEMENT SERVICES

3.080 Definitions.

As used in this subchapter:

"Department" means the Department of Management Services of Lane County.

"Director" means the Director of the Department of Management Services. *(Revised by Order No. 98-4-1-11; Effective 4.1.98)*

3.082 Director.

(1) Under the administrative direction of the County Administrator, the head of the Department shall have the title of Management Services Director of Lane County.

(2) The Director shall have the responsibility for the management of the Management Services Department and the "Functions" as stated below.

(3) The Director shall also have the titles of Finance Officer, ~~and Treasurer and County Clerk~~ of Lane County, and such other titles as are authorized under state law for use by the County Clerk in performing the functions described below. The Director may further delegate such authority in writing.

(4) The Director shall have the authority to authorize and issue refunds for fines, fees or excess payments, except for taxes and for payments made to the Department of Public Works on applications denied or not acted upon by request of the applicant.

(5) The Director shall be responsible for developing procedures for the uniform application of all budget and financial policies consistent with the law.

(6) The Director shall perform such additional duties or assignments as may be delegated by the County Administrator or the Board. *(Revised by Order No. 98-4-1-11; Effective 4.1.98)*

3.084 Functions.

The Department shall perform and be responsible for the following functions:

(1) Finance. The Department shall be responsible for the financial operations of the County to maintain accuracy, economy and appropriate protection of public funds, and for performing the functions of County Treasurer and County Clerk under general state law with respect to financial matters. The Department shall manage the receipt of cash, investment of monies, disbursement of funds for payment of claims and payroll, handling of trust funds, maintenance of appropriate records of all financial activities, auditing of accounts and shall report as necessary to the Board or as otherwise described by law.

(2) Purchasing. The Department shall be responsible for developing and administering appropriate bid, contract award, purchasing and other procedures and systems for a centralized purchasing and contracts management program.

(3) Properties. The Department shall be responsible for managing the real estate functions of the County, including negotiating leases on behalf of the County, supervising its rented properties, selling surplus property as directed by the Board and managing the inventory of all County-owned property other than that in the road right-of-way or purchased with Road Funds. The Department shall also be responsible for the facilities maintenance and planning functions for all County facilities.

~~(4) Elections and Records. The Department shall be responsible for the functions of the County Clerk under general state law with respect to elections and records and any duties assigned to County Clerk by state law not otherwise specified. The Department shall also provide staff support for the Board of Property Tax Appeals.~~

At right margin indicates changes
Bold indicates material being added
Strikethrough indicates material being deleted

**LEGISLATIVE
FORMAT**

~~3.084-3.080~~

Lane Manual

~~3.084-3.084~~

(54) Other Functions. The Department shall be responsible for such additional functions as the County museum, print shop, a mail and courier system, data processing maintenance and applications to support the County budget and financial systems and position controls, and any other functions assigned by the County Administrator or the Board of Commissioners. *(Revised by Order No. 00-4-25-14, Effective 4.25.00; 06-11-29-4, 11.29.06; 07-5-9-5, 5.9.07)*