

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Policy Session Worksheet

Presentation Date: 11/12/2019 **Approx Start Time:** 2:00 p.m. **Approx Length:** 15 min

Presentation Title: Deferred Compensation Plan Committee Charter

Department: Human Resources

Presenters: Kristi Durham, Benefits Manager

Other Invitees: Evelyn Minor-Lawrence, HR Director

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Approval of the revised Deferred Compensation Committee Charter to improve customer service, plan compliance and administration from the Deferred Compensation Committee and move it forward for formal adoption at a future business meeting.

EXECUTIVE SUMMARY:

The retirement industry best practice is to have a committee charter and provide the Deferred Compensation Committee with documented fiduciary training on a periodic basis. A properly trained committee that follows a documented fiduciary process on a consistent basis provides a solid retirement plan to participants that is less susceptible to legal challenges.

This charter was drafted in 2014 and revised in 2019 and is now being brought in front of the Commissioners for formal approval so that the committee has a clear directive from the Board for Deferred Compensation. We are planning to make this charter effective as of the new fiscal year that began on July 1, 2019.

The committee charter outlines the fiduciary responsibilities of the Deferred Compensation Committee as delegated from the Board of County Commissioners. Attachment 2, Deferred Compensation Plan Fiduciary and Administrative Responsibilities Chart, summarizes the roles and responsibilities related to the County's deferred compensation plans.

Kristi Durham, Benefits Manager met with the Board of County Commissioners on October 1, 2019 to present the Deferred Compensation Committee Charter. At this meeting, revisions to the Committee Charter were requested by the Commissioners to clarify the role of each committee member.

Revisions to the Membership section of the Committee Charter have been made to more clearly state the role of each committee member.

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? \$2994.00 – One-time review of the Committee Charter by outside Counsel

What is the funding source? Participant fees - \$1.25 per participant

STRATEGIC PLAN ALIGNMENT

- How does this item align with your Department’s Strategic Business Plan goals?

Provide cost-effective, responsive and comprehensive benefit services to County departments, current and retired employees and their family members so they can better serve the residents of Clackamas County.

- How does this item align with the County’s Performance Clackamas goals?

Build trust through good government.

LEGAL/POLICY REQUIREMENTS: Retirement industry best practice

PUBLIC/GOVERNMENTAL PARTICIPATION: NA

OPTIONS:

- 1) Approve the revised Deferred Compensation Committee Charter and move it forward for formal adoption at a future business meeting.
- 2) Do not Approve the revised Deferred Compensation Committee Charter.
- 3) Approve the Charter with additional Changes and move it forward for formal adoption at a future business meeting.

RECOMMENDATION: Staff Recommends Option 1: Approve the revised Deferred Compensation Committee Charter and move it forward for formal adoption at a future business meeting.

ATTACHMENTS:

1. Revised Deferred Compensation Plan Committee Charter
2. Revised Deferred Compensation Plan Fiduciary and Administrative Responsibilities Chart

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval _____
County Administrator Approval _____

For information on this issue or copies of attachments, please contact Kristi Durham @ 503-742-5470.

County of Clackamas, Oregon

**Charter of the Deferred Compensation Committee for the
Clackamas County Deferred Compensation Plan**

Revised effective as of July 1, 2019[DATE]

The County of Clackamas, Oregon (the "County"), serving as both the "Plan Sponsor" and the Trustee of the Clackamas County Deferred Compensation Plan (the "Plan"), has established the Deferred Compensation Committee for the Plan (the "Committee") for the purpose of acting on behalf of the County in connection with Plan administration and the investments made available from time to time under the Plan. In this regard, the Committee shall serve as the designated "Plan Administrator," including with respect to the investment powers described in Section 5.2 of the Plan document. The Committee's primary responsibilities are to administer the Plan and to exercise oversight as to investment alternatives (the "Investment Options") made available to participants under the Plan. This Charter of the Committee (the "Charter") sets forth the responsibilities and functions of the Committee. It is a description of actions the Committee might take in fulfilling its role; it is not a required set of procedures the Committee must follow.

A. Membership

1. The Committee shall be comprised of at least five (5) voting members:
 - a. Benefits Manager as Chairperson, appointed by the Employer's Board of Commissioners;
 - b. County Treasurer as Co-Chair, appointed by the Employer's Board of Commissioners;
 - c. Appointees selected by the presidents of the employee unions that have entered into collective bargaining agreements with the Employer;
 - d. Other designated persons appointed from time to time by the Employer's Board of Commissioners or its delegate, the Committee Chairperson.
2. A Committee voting member may resign by giving prior written or electronic notice to the Committee Chairperson.
3. A Committee voting member may be removed at any time, with or without cause, by their Appointing Authority.

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- ~~4. Responsibilities of the Chairperson. The Chairperson's normal duties may include the following:~~
- ~~a. Determining when to act at a meeting and when to act by unanimous consent without a meeting;~~
 - ~~b. Scheduling Committee meetings and inviting guests, as appropriate;~~
 - ~~c. Setting the meeting agenda; overseeing distribution of meeting materials;~~
 - ~~d. Chairing meetings, overseeing discussion, minutes and actions taken; and~~
 - ~~e. Overseeing the Committee's communication with employees, beneficiaries, regulators, consultants, vendors, and other third parties.~~
- ~~1. The Committee shall be comprised of at least five (5) voting members, including at a minimum: (1) the Benefits Manager as Chairperson and (2) the County Treasurer as Co-Chair. In addition, Committee voting membership will also include appointees selected by the presidents of the unions representing employees of the County and may include such other persons as may be designated by the Committee Chairperson.~~
- ~~2. The voting members of the Committee shall be appointed by, and serve at the pleasure and discretion of, the Committee Chair.~~
- ~~3. A Committee voting member may resign by giving prior written or electronic notice to the Committee Chairperson.~~
- ~~4. A Committee voting member may be removed at any time, with or without cause, by the Committee Chairperson.~~
- ~~5. Responsibilities of the Chairperson. The Chairperson's normal duties may include the following:~~
- ~~a. Determining when to act at a meeting and when to act by unanimous consent without a meeting;~~
 - ~~b. Scheduling Committee meetings and inviting guests, as appropriate;~~
 - ~~c. Setting the meeting agenda; overseeing distribution of meeting materials;~~

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- ~~d. Chairing meetings, overseeing discussion, minutes and actions taken; and~~
- ~~e. Overseeing the Committee's communication with employees, beneficiaries, regulators, consultants, vendors, and other third parties.~~

B. Committee Responsibilities

1. Administrative Duties. Subject to duties allocated to a specific Committee member, another plan fiduciary or a third-party (for whose actions, or failures to act, the Committee may remain subject to fiduciary liability), the Committee may be responsible for the following matters relating to Plan administration:
 - a. Maintaining the Plan document in accordance with legal requirements;
 - b. Interpreting the Plan;
 - c. Maintaining the Plan's Summary Plan Description;
 - d. Providing information to Plan participants upon request;
 - e. Determining eligibility to participate and benefits;
 - f. Offering eligible employees the opportunity to enroll in the Plan;
 - g. Monitoring timely transmittal of participant contributions;
 - h. Administering in-service withdrawals and post-employment distributions;
 - i. Determining the rights of Plan participants and beneficiaries and deciding benefit claims and appeals;
 - j. Administering domestic relations orders that purport to be qualified orders;
 - k. Paying Plan expenses, with Plan assets when appropriate;
 - l. Responding to inquiries from regulators;
 - m. Managing the Plan's relations with third-party advisors, consultants and vendors, including reviewing, as appropriate, the performance of advisors, consultants and vendors and soliciting alternate proposals or replacing advisors, consultants and vendors as desired;

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- n. Recommending to the County Plan amendments that might simplify or clarify the Plan or its administration or ensure or facilitate compliance with legal requirements;
- o. Addressing issues raised by Plan participants and beneficiaries
- p. Reviewing and updating the Charter as necessary or desirable; and
- g. Attend committee meetings.
- q. ~~Whenever a voting member misses three or more consecutive meetings, that member should consider whether or not to continue participation.~~

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- 2. Investment Duties. Subject to duties allocated to a specific Committee member, another plan fiduciary or a third-party (for whose actions, or failures to act, the Committee may remain subject to fiduciary liability), the Committee may be responsible for the following matters relating to Plan investments:

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- a. The Committee shall be responsible for the selection, oversight, and evaluation of the Investment Options made available under the Plan, and for making changes to the Investment Options with consultation, as desired, from investment advisors.
- b. To approve and monitor the Investment Policy Statement (the "Policy") for the Plan;
- c. To offer Plan Participants a diversified offering of Investment Options to minimize the risk of large losses;
- d. To receive and review periodic reports about the status of the Investment Options;
- e. To act on behalf of the County with respect to the appointment and termination of trustees, investment advisors and consultants, named fiduciaries or other positions relating to the investments held under the Plan;
- f. To review periodically the performance of any third parties engaged in the administration, management or investment of funds of the Plan, including the review and renegotiation of services agreements with such third parties; and

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- g. To delegate certain investment responsibilities to subcommittees, if the Committee determines that such delegation is advisable and is otherwise allowable by law or regulation and is not inconsistent with the terms of the Plan.
3. The Committee shall perform all duties in accordance with the Plan document and in the best interests of Plan participants and beneficiaries, while acting with the care, skill, and diligence that a reasonable person acting in a like capacity familiar with such matters would use in a similar situation.
 4. In fulfilling its responsibilities, the Committee may obtain the advice and assistance of County management, and may select, retain and replace consultants, investment advisors, legal advisors, or other professionals, as is deemed appropriate under County policy.
 5. The Committee shall serve as a designated fiduciary with respect to the investments of Plan assets and for managing and administering the Plan more generally. Nothing contained in this Charter is intended to create, or should be construed as creating, any responsibility or liability of the members of the Committee, except to the extent otherwise provided in this Charter or under applicable federal or state law.
 6. The Committee shall have the authority, to the extent it deems necessary or appropriate, to retain independent counsel or other independent advisors to provide advice to the Committee or to conduct investigations at the direction of the Committee.
 7. Members of the Committee shall not be compensated for their services as such, since the performance of such services are deemed to be in partial fulfillment of their responsibilities as employees of the County. However, expenses reasonably incurred by the Committee shall be the responsibility of the County to the extent such expenses are not paid by the Plan.

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C. Meetings

1. The Committee shall meet on an annual (or more frequent) schedule to provide for the orderly and timely administration of the business with a goal of meeting at least quarterly. The Chairperson, or any two Committee voting members, may call meetings of the Committee. Any meeting shall be called upon at least three (3) days' electronic or at least seven (7) days' written notice to all Committee voting members, which notice shall specify the date, time and place of such meeting and may specify the purpose thereof and any action proposed to be taken.

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2. Such County officers and other employees of the County, and outside consultants or counsel, as the Committee may designate, may attend the meetings. At its discretion, the Committee may meet in executive session, subject to the requirements of applicable law.
3. Prior to each meeting, the Committee Chairperson shall send Committee members an agenda of topics for the meeting and, if completed, the minutes for the prior meeting. Written reports may accompany the agenda or be sent separately for review by the Committee voting members prior to the meeting. Any topic not on the agenda may be introduced at any meeting at the request of a Committee voting member.
4. No less than four voting members shall be necessary to constitute a quorum for the transaction of Committee business. Any voting Member present in person or by telephonic or similar communication arrangement for any part of any meeting shall be deemed to be present for the entirety of such meeting for the purpose of determining the presence of a quorum. Members voting on matters at a meeting by written proxy, but not otherwise in attendance for any part of such meeting, shall not be considered present for the purposes of determining whether a quorum has been achieved.
5. Any and all actions taken by the Committee at any meeting shall be by a majority vote of all voting members in attendance at such meeting, including any voting member present but not voting on a particular matter. A voting member not in attendance at a meeting may vote on any matter by written proxy. A member voting by written proxy as to any matter shall be considered present at the meeting at which such vote is taken solely for the purpose of determining whether or not the matter on which such voting occurs has been carried by a majority, and for no other purpose. The Committee may act by unanimous consent in writing (including by electronic mail) without the formality of convening a meeting. A voting member shall not vote or act upon any matter that relates solely to him or herself as a Plan participant, and in the event such matter is approved in writing, such writing will be a valid approval if signed by all voting members except the interested voting member.
6. Voting members may designate a nonvoting representative to attend and participate in Committee meetings. The nonvoting representative may carry the voting member's written proxy, but may not vote on new issues that arise during the meeting.
7. The Committee voting member may participate in any meeting through the use of a conference telephone or similar communications equipment by means of which all persons

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participating in the meeting can hear each other. A Committee voting member's participation in a meeting by such means shall constitute that member's presence in person at the meeting.

8. The Chairperson, and another Committee voting member if authorized by the Committee, shall have signing authority to execute any notice, certificate or other written instrument relating to the investments of the Plan in accordance with the direction of the Committee.

The Committee shall maintain written minutes of its meetings. The Committee may designate an individual to take the minutes, and the individual need not be a voting member of the Committee.

IN WITNESS WHEREOF, the Employer has caused this Committee Charter to be signed and attested by its duly authorized officers on the _____ day of _____, 2019.

Board of County Commissioners:

Chair

Recording Secretary

Deferred Compensation Committee:

Committee Chairperson

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Appendix A to Charter of the Deferred Compensation Committee
APPOINTMENT OF DEFERRED COMPENSATION COMMITTEE MEMBERS

CLACKAMAS COUNTY DEFERRED COMPENSATION PLAN

APPOINTMENT OF DEFERRED COMPENSATION COMMITTEE MEMBER

As a duly appointed representative of Clackamas County, I appoint [NAME] as a member of the Deferred Compensation Committee for the Clackamas County Deferred Compensation Plan, effective [DATE].

[Name]
[Title]
Date: _____

I accept appointment to the Deferred Compensation Committee for the Clackamas County Deferred Compensation Plan effective on the date set out above

[Name of Appointee]
Date: _____

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DEFERRED COMPENSATION PLAN FIDUCIARY AND ADMINISTRATIVE RESPONSIBILITIES - AS DELEGATED

Board of County Commissioners

Approve Plan Document Changes

Approve Committee's Recommendation for Recordkeeper & Other Consultants

Appoint Committee Chairperson & Co-Chair

Deferred Compensation Committee

Attend Committee Meetings

Select & Oversee Investment Options

Conduct RFP and RFIs for Recordkeeper & Other Consultants/Service Providers

Provide a Secondary Level of Appeals

Avoid Conflicts of Interest

Appoint Committee Members

Benefits & Wellness Staff

Facilitate Committee Meetings/Provide Written Minutes

Maintain the Plan Document, SPD, and Committee Governance Documents

Timely Process Enrollments & Contributions

Provide Information and Communication to Plan Participants

Pay Plan-Related Expenses

Recordkeeper

Attend Committee Meetings

Provide Investments Chosen by the Committee

Timely Process Enrollments & Contributions

Provide Participant Education (Digital, Print & In-Person)

Administer Withdrawals, Distributions & Appeals

Administer Domestic Relations Orders

Investment Consultant

Attend Committee Meetings

Provide Investment Guidance and Product Due-Diligence

Serve as a Fiduciary to the Plan's Investments

Serve as Project Manager for the Recordkeeper RFP Process

Provide Committee Training, Education and Legislative/Regulatory Updates

Source Documents:

Deferred Compensation Plan Document - Amended 1/1/2019

Committee Charter - Drafted 6/24/2014

Investment Policy Statement - Drafted 6/5/2014