

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Sitting/Acting as (if applicable)
Study Session Worksheet

Presentation Date: March 28 **Approx Start Time:** 3:30 pm **Approx Length:** 1 hour

Presentation Title: SLAPP suits and CPO Insurance Coverage

Department: County Counsel

Presenters: Stephen Madkour, County Counsel

Other Invitees: Dwayne Kroening, Risk Manager and Gary Schmidt, PGA

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD? The County has received correspondence from various CPOs expressing concerns about legal liability exposure and the desire to be provided some type of coverage from the county. Does the Board want to explore options to provide CPO members with some type of insurance coverage?

EXECUTIVE SUMMARY: A Community Planning Organization (CPO) is defined in Chapter 2.10 of the County Code and described in Chapter 2 (Citizen Involvement) of the Clackamas County Comprehensive Plan, means a community organization which acts in an advisory capacity to the Board of County Commissioners, Planning Commission, and Planning Division on land use matters affecting its area. The CPO program is the method Clackamas County uses to meet Goal 1, Citizen Involvement, of the Statewide Planning Goals. A CPO is not considered an agent of the County.

Hamlets and Villages are considered agents of the County for the purposes of liability coverage. Chapter 2.10.110 of the County Code states: Agency status: "Hamlet and village board members acting within the scope of authority granted by the organization bylaws and county policies are advisory to the BCC and shall be treated as agents of the county for claims against them for purposes of the Oregon Tort Claims Act. When acting in the capacity of a CPO, a hamlet or village board shall not be considered an agent of the county."

FINANCIAL IMPLICATIONS (current year and ongoing): It is estimated that the cost to provide insurance coverage is about \$1500 annually. CPO's receive up to \$150 annually from PGA for operating expenses. Hamlets and Villages receive up to \$2,000 annually for operating expenses. PGA also budgets one full time employee to serve as public involvement staff liaison to Hamlets, Villages and CPOs. PGA financially supports Hamlet and Village election mailings and CPO boundary change mailings.

LEGAL/POLICY REQUIREMENTS: The source of authority for Hamlets, Villages, and CPOs is set forth in Chapter 2.10 of the Clackamas County Code. The Code provides that Village and Hamlet board members are agents of the county for the purposes of defense and indemnification. CPO members are not considered agents. The difference stems from the role of the three entities.

Villages and hamlets are really subdivisions of the county. Its members are elected and are subject to a code of conduct set forth in the Code. Hamlet and village board members are

subject to removal. No such oversight is available for CPOs, which operate more independently. Additionally, a CPO could be adverse to the county in land use decisions.

A couple years ago, members of the Mt Hood CPO were named as defendants in a lawsuit filed by a property owner. The members were able to obtain representation from volunteers at the Lewis and Clark Law School. It has been reported that the lawsuit has had chilling effect on members of the community wanting to volunteer on a CPO.

PUBLIC/GOVERNMENTAL PARTICIPATION: PGA provides a dedicated staff liaison to support Hamlets, Villages and CPOs. In addition, PGA manages Hamlet and Villages board recruitment and election processes.

OPTIONS:

1. Maintain current structure;
2. Amend Code and name CPOs as agents of the county and eligible for county coverage, which would result in a general fund budget increase;
3. Increase annual stipend to enable CPO to procure insurance coverage, which would result in a general fund budget increase; or
4. Explore options such as a group policy for all CPOs or determine if coverage is more readily available if the CPO registers as a non-profit or some other recognized entity, which could result in a general fund budget increase.

RECOMMENDATION:

Either 1, 3 or 4.

ATTACHMENTS: N/A

SUBMITTED BY:

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

For information on this issue or copies of attachments, please contact County Counsel Stephen L. Madkour at 503-655-8362.
