

# CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

## Policy Session Worksheet

**Presentation Date:** Feb. 9, 2016 **Approx Start Time:** 10:30 a.m. **Approx Length:** 60 minutes

**Presentation Title:** The Road Ahead – Ballot Language Options

**Department:** Public & Government Affairs; Transportation & Development

**Presenters:** Gary Schmidt, Director, PGA; Barbara Cartmill, Director, DTD

**Other Invitees:** Amy Kyle, Tim Heider, Ellen Rogalin – PGA; Mike Bezner, Randy Harmon, Joe Marek, DTD

### WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

We are asking for direction from the Board of Commissioners on whether to put one or more questions on the May 17, 2016 ballot related to funding road maintenance and safety. If the answer is yes, then there are two questions we will seek direction on from the Board:

1. Whether the one or more measures should be advisory or binding, and
2. What the question(s) should be.

### EXECUTIVE SUMMARY:

On Dec. 15, 2015, the Board of County Commissioners approved consideration of a seven-year, \$25/vehicle/year countywide vehicle registration fee (VRF), and directed staff to arrange for public outreach and input opportunities with the Board beginning in January 2016.

On Feb. 2, 2016, the Board directed staff to prepare for a ballot measure in May 2016 and draft possible ballot measure questions, both advisory and definitive, for review at the next policy session. At the same meeting Commissioners also discussed alternatives to the \$25/vehicle/year seven-year VRF, including a combination of a 3-cent gas tax with a \$5/vehicle/year or a \$10/vehicle/year VRF, limited to five years.

The following documents are attached to provide information and options to Commissioners for discussion at the Feb. 9 policy session:

- Clackamas County Road Funding: Tax or Fee Rate Needed to Raise \$X Million Per Year
- Legal Requirements and Timelines for a May 2016 Ballot Measure
- Sample Advisory and Binding Ballot Measure Questions

### FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES X NO

What is the cost? \$150,000 (outreach)

What is the funding source? General and Roads funds

### STRATEGIC PLAN ALIGNMENT:

- **How does this item align with your Department's Strategic Business Plan goals?**
  - I. PGA: By 2019, the \$17 million road maintenance funding gap will be addressed.
  - II. DTD: Travelers on Clackamas County roads will experience safe roads in good condition, as evidenced by:

- ▶ By 2019, no more than 20 miles of County roads will deteriorate from 'good' to 'fair' or 'poor' per year
- ▶ By 2019, no more than 70% of local County roads (658 total miles) will be rated 'fair to poor'
- ▶ By 2019, 120 additional miles of County roads will be improved to 'good to excellent' status, a 9% increase over 2014
- ▶ By 2019, the three-year average number of serious injuries and fatalities on roads in Clackamas County will be reduced from 133 to 113

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

- Build a Strong Infrastructure: By 2019, 120 additional miles of county roads will be improved to 'good to excellent' status, a 9% increase from 2014.
- Build Public Trust Through Good Government: By 2020, Clackamas County will achieve the Strategic Results in the Strategic Plan.

**LEGAL/POLICY REQUIREMENTS:** There are legal requirements and deadlines related to approving any ordinance or ballot measure.

**PUBLIC/GOVERNMENTAL PARTICIPATION:** Extensive outreach and education has taken place over the past two years including presentations to community groups, a website, billboards, social media, sharing information at events, public surveys, articles in *Citizen News* and presentations at BCC study sessions and business meetings.

**OPTIONS:** N/A

**RECOMMENDATION:** N/A

**ATTACHMENTS:**

- Clackamas County Road Funding: Tax or Fee Rate Needed to Raise \$X Million Per Year
- Legal Requirements and Timelines for a May 2016 Ballot Measure
- Sample Ballot Measure Questions

**SUBMITTED BY:**

Division Director/Head Approval: \_\_\_\_\_

Department Director/Head Approval: s/Gary Schmidt

County Administrator Approval \_\_\_\_\_

<p><i>For information on this issue or copies of attachments, please contact Amy Kyle @ 503-742-5973</i></p>
--

**Clackamas County Road Funding**  
**Tax or Fee Rate Needed to Raise \$X Million per Year**

<b>Gas Tax</b> (\$/gal)	
County Wide	
<b>\$1.5 M</b>	1 ¢
<b>\$2.9 M</b>	2 ¢
<b>\$4.4 M</b>	3 ¢
<b>\$5.8 M</b>	4 ¢
<b>\$7.3 M</b>	5 ¢
<b>\$8.7 M</b>	6 ¢
<b>\$10.2 M</b>	7 ¢
<b>\$11.6 M</b>	8 ¢
<b>\$13.1 M</b>	9 ¢
<b>\$14.5 M</b>	10 ¢
<b>\$16.0 M</b>	11 ¢
<b>\$17.4 M</b>	12 ¢
<b>\$17.65 M</b>	12.3 ¢

<b>VRF</b> (\$/vehicle/yr)	
County Wide / County Share	
<b>\$1.0 M</b>	\$5
<b>\$2.1 M</b>	\$10
<b>\$3.1 M</b>	\$15
<b>\$4.2 M</b>	\$20
<b>\$5.0 M</b>	\$24
<b>\$5.2 M</b>	\$25
<b>\$6.0 M</b>	\$29
<b>\$7.1 M</b>	\$34
<b>\$8.1 M</b>	\$39
<b>\$9.0 M</b>	\$43
Maximum local \$43/VRF under Oregon State Law.	

## Clackamas County Road Funding

### Legal Timeline and Requirements for May 17, 2016 Ballot Measure

#### Timeline

1. No later than Friday, Feb. 26, the ballot title, question and summary must be sent to the County Clerk for publication.
2. There is a seven-day ballot title challenge period. If the title is challenged, the county would be in court for first and final review.
3. On **March 17**, all challenges must be completed and submitted to the clerk.
4. The measure would be included in the voter's pamphlet in which interested parties could include arguments in favor or against. Such arguments are due by **March 21**.

#### Requirements

The question must include three components:

- a ballot title -- the caption that describes the subject of the referral (up to 10 words),
- the question of the referral (up to 20 words), and
- a summary describing the major effects of the referral (up to 175 words)

The question may also include a 500-word explanatory statement.

An advisory vote must be on a simple, straightforward question that elicits a "yes" or "no" response.

- There may not be any compound questions or contingencies.
- There could be more than one advisory question.

Taxes require voter authorization.

- If the gas tax goes to the voters and is accompanied by a list of projects or spending priorities, then the county will be bound to use the funds for the specified projects.
  - Oregon's Constitution provides "[e]very law imposing a tax shall state distinctly the purpose to which the revenue shall be applied." Art. IX § 3. As a general rule, taxes levied for a specific purpose cannot be used for other purposes. *Calkins v. Lane County*, 105 Or 127 (1922).
  - Oregon's Constitution, statutes and case law support the conclusion that when taxes are authorized for a specific amount and use, then the amount and use may not be altered without approval of the voters.
- If the VRF goes to the voters with a list of projects and is passed, then it too would likely bind the county to expend the funds as specified.
  - ORS 310.350 directs that "[m]oney collected or received by any officer for a distinct and specified object shall be kept as a separate fund for the specified object and no portion shall be paid or applied to any other object or purpose without due authority."
  - Oregon law makes it unlawful for any public official to expend any monies in excess of the amount provided by law, or for any other or different purpose than provided by law. ORS 294.10(1).

Clackamas County Road Funding  
**Sample Advisory and Binding Ballot Measure Questions**

*(Guidelines: Yes/no questions; no compound questions; no contingencies; maximum of 20 words)*

**1. Sample Questions: Advisory**

- a) Shall the county **establish funding sources** that expire after **X years** to pay for road maintenance and safety improvements ?
- b) Shall the county **establish a \$XX vehicle registration fee for X years** to pay for road maintenance and safety improvements?
- c) Shall the county submit for future approval a **\$0.03 per gallon gas tax** for a period of **5 years**?
- d) Shall the county propose for a future election creation of a **\$5 vehicle registration fee** per vehicle for **5 years**?
- e) Shall the county propose for a future election creation of a **\$10 vehicle registration fee per vehicle** for **5 years**?
- f) Shall the county propose for a future election creation of a **\$25 vehicle registration fee per vehicle** for **7 years**?

**2. Sample Questions: Binding**

- a) Shall county impose **gas tax** of **\$0.03 per gallon** for **5 years** for road maintenance and safety within Clackamas County?
- b) Shall county impose **vehicle registration fee** of **\$10** per vehicle for **5 years** for road maintenance and safety within county?
- c) Shall county impose **vehicle registration fee** of **\$5** per vehicle for **5 years** for road maintenance and safety within county?
- d) Shall county impose **vehicle registration fee** of **\$25** per vehicle for **7 years** for road maintenance and safety within county?