

LEAGUE OF WOMEN VOTERS OF COOK COUNTY
Study for the November 8, 2016 Referendum
to Abolish the Elected Office of the Recorder of Deeds
and to Transfer the Duties of that Office to
the Cook County Clerk

Dated September 7, 2016

Conclusion and Recommendation

The League of Women Voters of Cook County (“League”) **supports passage of the Referendum** to abolish the elected office of the Recorder of Deeds and to transfer the duties of that office to the Cook County Clerk. This recommendation emerges from applying the facts that the League has gathered to the criteria set forth in the previously adopted League position on “Elected versus Appointed, or Consolidation of Bodies or Office.”

Some may say that the benefits which are likely to result from the merger of these two offices are relatively minor in the context of the entire government of Cook County, which has a \$4 billion plus budget. Nevertheless, the League has found that at least \$1 million in annual savings would be realized. This amount could be much more due to normal increases each year through 2020, as well as additional savings that may be identified during the process of consolidating the offices. The League has also found that the likely benefits outweigh any potential negatives put forward by the Recorder of Deeds. These cost savings could be used for other important County programs, such as anti-violence efforts, or, coupled with other savings, could help reduce the need to raise taxes or fees. Finally, this is not a one-time \$1 million plus savings, but an annual savings of \$1 million or more.

Introduction

On July 13, 2016, the Cook County Board passed a “Resolution to Present a Public Question via a Countywide Referendum Abolishing the Office of the Cook County Recorder of Deeds” (Item 15-6190, as amended). Under this Resolution, the following binding referendum will appear on the countywide ballot for the November 8, 2016 election:

“Shall the Office of the Cook County Recorder of Deeds be eliminated and all duties and responsibilities of the Office of the Cook County Recorder of Deeds be transferred to, and assumed by, the Office of the Cook County Clerk by December 7, 2020.

“ Yes

“ No”

In verbal and written comments to the Board, the League supported placing this referendum on the ballot, but said that the League did not yet have a position on the merits of the referendum. The League also stated that it would do a study of the specifics to determine the League’s position. This is that study.

It should be noted that neither the referendum nor this study are dealing with whether the current offices of the Recorder of Deeds and County Clerk are appropriately staffed or well run. Rather, the questions focused on here are whether there is a need for the Recorder to be an elected office and whether the likely benefits resulting from the transfer of the Recorder’s duties to the County Clerk will outweigh potential negatives.

Current League Position as the Framework for this Study

In 2011, the League adopted a position on “Elected vs. Appointed or Consolidation of Bodies or Offices.”¹ This position provides the framework for the study and analysis leading to the conclusion in favor of passage of the referendum.

Utilizing this position to frame our questions, members of the League met with Recorder of Deeds Karen Yarbrough and the Deputy Recorder, Communications, John Mircovic, on August 1; and with Commissioner John Fritchey, who sponsored the Resolution to place the issue on the ballot, on August 10. Members of the League also spoke with Cook County Clerk David Orr and with Peoria County Clerk R. Steve Sonnemaker, McLean County Clerk Kathy Michael, Adams County Clerk & Recorder Chuck Venvertloh, and Tazewell County Clerk Christie Webb. They were all generous with their time and very helpful. We also reviewed information from the 2016 Cook County Executive Budget books and the final 2016 Cook County Budget.

Each of the criteria in this position for determining whether there should be consolidation of offices and elimination of an elected position is listed below in italics and bold. The findings which relate to that criterion are then in bold type, followed by discussion in regular type.

1. Whether the body or official makes public policy decisions, which would tend to be supportive of the need for election, as opposed to that body or official having mainly administrative duties.

Any public policy decisions made by the elected Recorder of Deeds could be made by the elected Clerk if the recording duties were transferred to the Clerk.

The Recorder does not disagree.

Recorder Yarbrough does raise the question as to whether the Clerk would focus sufficiently on the recording function should those duties be transferred to the Clerk. However, the Clerk would undoubtedly appoint a Deputy Clerk to oversee the recording duties and to advise him/her on any policy issues. Such policy issues would include what changes to existing state statues and county ordinances might be appropriate. For example, the Recorder told us of a bill she is supporting in Springfield that would allow Recorders in all Illinois counties to record wills.

Nevertheless, most of the Recorder’s duties involve managing an area that primarily has administrative duties. We do not consider making sure that documents comply with existing law before recording to be a policy decision, as argued by the Recorder.

While the County Clerk does have a number of different responsibilities, we do not think they are so many as to cast doubt on the Clerk’s ability to sufficiently focus on any policy issues that need to be made regarding the recording of deeds functions. Certainly the number of functions and number of employees under many of the other elected officials of Cook County are greater.

¹ *Where We Stand, 2015 Edition* which can be viewed at http://www.lwvcookcounty.org/uploads/6/7/9/9/67994881/where_we_stand_-_2015_edition_rev.pdf

2. Whether there will be significant cost savings as a result of consolidation or elimination of the elected body or position, or whether there will be significant increased costs as a result of creating a new elected body or position.

It is reasonable to assume that at least \$1 million would be saved annually by moving the recording function to the Clerk's office. Moreover, despite concerns raised by the Recorder, there do not need to be significant dollars spent to combine computer systems in order to consolidate the offices.

Commissioner Fritchey, the sponsor of the Resolution to place this referendum on the November 8 ballot, included a statement in that Resolution that there could be over \$1 million in annual savings through a more efficient provision of services. This amount is based on a Civic Federation *Cook County Modernization Report* in 2010 which estimated that there would be a 5% cost savings by consolidating the Recorder of Deeds function with the County Clerk. Based on the General Fund budgets of both those offices in 2010, a 5% savings would amount to \$800,000. We believe that Commissioner Fritchey then assumed that by 2020, that \$800,000 figure would, as a result of normal inflation, amount to at least \$1 million.

However, the Civic Federation did another calculation for 2016, again applying 5% to the General Fund budgets of the Recorder and Clerk and came up with a smaller estimated savings because the total of those two budgets is less than in 2010. The Recorder's General Fund budget is much smaller due in part to the fact that there have been significant reductions in full time employees ("FTEs") because there are fewer real estate recordings than prior to the 2008 recession. In addition, there has been a County-wide effort in recent years to move costs and FTEs to the Special Purpose Funds wherever they can be moved legitimately.

The Cook County Clerk did a quick calculation and found that eliminating 6 non-union management positions in the two offices would amount to a savings of close to \$1 million, based on the 2016 budget, which does not take into account other redundancies in the suburban court offices of the Recorder and Clerk.

The League has done its own calculation to see if \$1 million in savings is reasonable. We believe it is reasonable. See Appendix A, attached. We looked at just the Personal Services costs² of the General Funds and Special Purpose Funds³ of both the Recorder and Clerk, other than the Clerk's Election Fund budget. The Election Fund budget changes significantly each year because of the different number and types of elections each year, so we did not include it in our calculation. Personal Services costs include salaries, overtime, health insurance, medicare, professional and technical membership fees, training, and transportation and other travel expenses in the General Fund budgets, and these costs plus statutory pension, life insurance, dental insurance, vision care insurance, and group pharmacy insurance costs are included in the Personal Services costs in the Special Purpose Funds.

We then divided the total Personal Costs in both offices by the total number of FTEs, as found in the 2016 budget. If the only cost savings obtainable as a result of the merger of offices was through a reduction of FTEs, then there **would need to be 16 FTEs reduced to achieve the \$1**

² The Cook County budgets use the term "Personal" Services costs, rather than "Personnel" Services costs.

³ The Clerk's Special Purpose Fund is the Automation Fund which covers automated services in Tax Services, Vital Records, Clerk of the Board, and Ethics areas. The Recorder of Deeds' Special Purpose Funds are the Document Storage System Fund (very much like the Automation Fund), the GIS (Geographic Information System) Fee Fund, and the Rental Housing Support Fee Fund. The Clerk also works with the GIS system through its General Fund budget.

million in savings. This reduction would be less than 5% of the total FTEs in the two offices.

That there could be a 16 FTE reduction seems more than reasonable given that both the Recorder and Clerk each have public relations, accounting, human resources/payroll, and purchasing functions that are staffed. In addition, the Recorder has personnel in 4 of the suburban courthouses and the Clerk has personnel in 5 of those courthouses. The Clerk has told us that if both functions were under one office, there could be a reduction in supervisory positions, as well as, by cross-training people, a reduction in other staff in those courthouses.

Both the Recorder and Clerk also have a number of people who staff the offices in the County Building for recording and retrieving documents for real estate transactions and marriage, birth, and death certificates. Should some or all of those separate offices be able to be combined in one location,⁴ that would again lead to the conclusion that there could be a reduction in supervisory personnel and, through cross-training, other staff.

In addition to savings from reducing the number of FTEs, it seems reasonable to assume that there would be other cost savings by combining the two offices, such as stationery, office space, etc. The Recorder suggests that there could be millions of dollars needed up front to combine computer systems, but the Clerk has told us that there is no reason that the combined office could not continue to have different computer systems for different functions. Commissioner Fritchey said that there may be reasons to either combine the systems or provide an interface for the two systems, but these would be one-time costs that would be quickly recovered as the annual savings continue on into the future.

Peoria County in Illinois is in the process of merging the now separate Recorder of Deeds office into the County Clerk's office. Recorder Yarbrough told the League that Peoria is facing approximately \$1 million in unplanned costs. The League spoke to the Peoria County Clerk, R. Steve Sonnemaker, who told us this is incorrect. That County is currently in the process of scanning all recordings dating back to the mid-1850's, and the cost of doing so is approximately \$750,000. Clerk Sonnemaker said that this cost has nothing to do with the merger as the scanning project would have had to be done even if the merger was not taking place later this year. Clerk Sonnemaker did say that there are costs being incurred to move some employees up to a different floor and there have been some costs incurred for cross-training employees which could be said to be a result of the merger. These costs may amount to \$250,000. However, there are also cost savings, not to mention efficiencies, because the merger is resulting in the need for 6 fewer positions out of a previous total of 11. The reductions in personnel have all been done through attrition, rather than layoffs.⁵

It should be noted that the Cook County Clerk told the League that he would expect that most of the FTE reductions in Cook County could also be done through attrition, rather than having to

⁴ There would likely be costs to remodel the office space to accommodate the different functions. But that would be a one-time cost and we would expect that a calculation would be done first to make sure the expected benefits would outweigh the costs, and such costs would be recovered quickly.

⁵ League members also spoke with Tazewell County Clerk Christie Webb and McLean County Clerk Kathy Michael. These counties eliminated the elected position of Recorder of Deeds and transferred the duties to the County Clerk in 2012 and 2013, respectively. Both Clerks told the League that the transitions went smoothly and that there have been cost savings realized. According to the Adams County Clerk & Recorder, Chuck Venvertloh, the merger of the functions took place prior to 2004, though the first time the combined position of Clerk & Recorder was elected was in 2006. Mr. Venvertloh also told the League that several positions were able to be eliminated through attrition, and one clerk who primarily handles recording duties is trained to do clerk functions during high volume times such as during elections.

actually let people go from jobs. If the referendum passes, we would expect that the Clerk and Recorder over the next four years would work together so that normal attrition would take care of most of the FTE reductions.

3. *Whether there will be efficiencies that should lead to better service through elimination of overlapping responsibilities or duties and/or through improved communications between employees of the consolidated body or office.*

There should be some efficiencies realized and some additional services offered should the Recording function be transferred to the Clerk through cross-training of employees.

Recorder Yarbrough made the point that knowing whether a property-related document should be recorded takes more knowledge than recording a birth, marriage, or death certificate. But we do not believe that staff doing one recording function could not learn the other. The Recorder agreed that her staff could learn the vital records functions of the Clerk. Moreover, the Recorder's office has many more employees at lower grades than are found in the Clerk's office.⁶ Assuming the positions are properly graded, that leads to the conclusion that the staff in the Clerk's office should be able to learn the information necessary to do the recording functions.

As discussed above, by combining the two office staffs, there should be some positions that would no longer be needed. Further, through cross-training, staff could be deployed as demand warranted. This may save some overtime costs, as well as having the advantage of providing better service to customers. The Recorder told us that after investigating workloads and demand for services at the courthouse offices, she determined that she should eliminate the recording function at the Maywood courthouse, which was done last year. The Clerk still has people there providing vital records services. Through cross-training, it seems reasonable that the recording function might be able to be returned to that courthouse.

4. *Whether there is a need for a trained professional in the role now being elected.*

There has not been a requirement in the past for the Recorder to have any special expertise in the function being overseen prior to being elected.

To the extent special expertise is needed, it can either be learned and/or obtained by the Clerk hiring a deputy with the necessary expertise to have direct responsibility for the Recording function.

5. *Whether there is a need for the body or official to be independent of other elected bodies or officials.*

There is no reason to keep the Recording function independent of any of the functions of the Clerk. Neither office serves as a check and balance on the other.

Further, the reason that the proposal is to move the Recorder's duties to the Clerk's office is that both deal with the filing and retrieving of records, so there should be synergies and efficiencies resulting from merging the two offices.

⁶ The Clerk's lowest level grade position is Grade 13. The Recorder has 85 positions in Grades 10, 11, and 12. Source: the 2016 Budget, Volume II.

6. Whether there is some other public interest being served by having a body or official accountable to the voters and/or by having the voters able to select the members of the body or the official through direct election.

Voters will continue to be able to elect the person responsible for the Recording function should the duties be transferred to the Clerk, and the Clerk will continue to be accountable to the voters.

Other Considerations

A. The Recorder has argued that having well-kept land records is essential to our County and nation. We fully agree. But we do not understand why, as the Recorder argues, it follows that the person overseeing the recording function must be a separately elected officer. Certainly it is important that the person overseeing the function must be competent and have integrity. But those qualities are equally important for the Cook County Clerk, who, among other responsibilities, oversees the running of elections in suburban Cook County.

As pointed out in the Resolution for the Referendum, of the 10 largest counties in the United States, all but Cook and Maricopa counties have combined the duties of the Clerk and Recorder under one elected officer, including the largest county of Los Angeles, which has almost double the population of Cook.⁷ There has been no suggestion that the land records in these counties are in disarray.

B. The Recorder has raised a concern that approval of the Referendum might cost the County millions of dollars should the consolidation of the offices not occur prior to the Recorder of Deeds office being released from *Shakman* oversight.⁸ The concern expressed to the League is that the court might decide to extend oversight to the Clerk's office after the merger. However, the Referendum calls for the consolidation of the offices by December 7, 2020. That gives the Recorder four years to be found to be in substantial compliance. Should that not be enough time, the merger might actually speed up a substantial compliance finding since the Clerk's office is not under *Shakman* oversight as a result of any charges of political considerations influencing personnel decisions.

⁷ The other counties are Harris, Texas; San Diego, CA; Orange, CA; Kings, NY; Miami-Dade, FL; Dallas, TX; and Queens, NY.

⁸ In 1969, a federal civil lawsuit entitled Michael L. Shakman, et al. vs. Democratic Organization of Cook County, et al., case number 69 C 2145 (the "Shakman Case"), was filed by a group of plaintiffs against various defendants including the Cook County Recorder of Deeds (the "Recorder"). In 1992, the Recorder entered into a Consent Decree with the plaintiffs to resolve some of the claims made in the lawsuit. The Recorder's Consent Decree specifically prohibited the Recorder from "conditioning, basing, or knowingly prejudicing, or affecting any term or aspect of governmental employment including, without limitation, hiring, promotion, demotion, transfer and discharge (other than for Exempt Positions) upon or because of any political reason or factor."

On September 14, 2010, Magistrate Judge Sidney Schenkier, with the agreement of the Recorder (Recorder Yarbrough's predecessor) and the Plaintiffs, entered a Supplemental Relief Order ("SRO") in the Shakman Case. The SRO is intended to ensure that the Recorder complies with hiring and employment practices as they relate to political consideration and to adjudicate claims of political discrimination. Pursuant to the SRO, Judge Schenkier appointed a Recorder Compliance Administrator ("RCA") for the Cook County Recorder of Deeds. The RCA, among other duties, files periodic reports with the court. In the most recent report filed on August 15, 2016, the Thirteenth, the RCA states that all the technical pieces are in place to achieve Substantial Compliance. However, a number of problems remain, as detailed in the report. See <http://recordshakman.com>.

- C. During the public comment period at the Finance Committee meeting of July 13, 2016 when this Referendum was discussed, several people expressed concern that the Property Fraud Program and the Veterans Service Office that the Recorder has established would be discontinued should the Referendum pass. However, there is no reason why any program in the Recorder's office, if worthwhile as these two programs seem to be, would need to be discontinued if the Referendum passed. The Recorder points to the other largest counties and says that they do not have such programs. But just as continuation of those programs depends on who the Clerk would be should the offices be combined, so does such continuation depend on any future Recorder who might be elected should the Referendum fail.
- D. As noted above, the Referendum, if passed, will give the County in general, and the Recorder and Clerk in particular, four years to plan for the transfer of the Recorder's duties to the Clerk. This should allow plenty of time to minimize any costs or disruption and to promptly realize efficiencies and savings from this consolidation of the offices.
- E. One final consideration is that currently each voter in Cook County has the opportunity to vote for 10 officials in County government.⁹ These are in addition to national, state, and local officials, including judges. While not all of these officials are on each ballot, voters still have a significant number of candidates on their ballots in the primary and general elections. This Referendum would eliminate only one office from the ballot every four years. Yet it would still result in one fewer set of candidates that the voters would have to become familiar with in order to make an informed decision.

**THEREFORE, FOR ALL THE REASONS DETAILED ABOVE,
THE LEAGUE SUPPORTS PASSAGE OF THIS REFERENDUM.**

⁹ The President, Assessor, Clerk of the Circuit Court, County Clerk, Recorder of Deeds, Sheriff, State's Attorney and Treasurer, all of whom are elected County-wide; plus a member of the Board of Review and a member of the Cook County Board, who are elected by district.

Appendix A

In the Resolution that the Cook County Board passed to put this issue on the ballot, it was asserted that there would be at least \$1 million in annual savings should the voters vote “yes.” If all the savings were to come solely from reducing head count as a result of the merger of these two offices, there would need to be a **reduction of at least 16 FTEs** (full-time equivalents) based on the average total personal cost per FTE in the two offices, as calculated using the 2016 budgets of the Clerk and Recorder.

Here is the calculation (all numbers come from the 2016 Cook County Budget that was passed, available on the Cook County web site):

	<u>Personal Services¹⁰</u>	<u>FTEs</u>
Clerk Gen Fund	\$ 8,130,117	136
Clerk Spec Purp. Auto Fund ¹¹	\$ 1,000,939	15
TOTAL	\$ 9,131,056	151
Recorder Gen Fund	\$ 5,163,338	92
Recorder Spec Purp Fund	\$ 6,182,391	79
TOTAL	\$11,345,729	171
Clerk Total Operating	\$ 9,131,056	151
Recorder Total Operating	\$11,345,729	171
TOTAL	\$20,476,785	322

\$20,476,785 divided by 322 = \$63,593, which is the average cost per FTE

\$1,000,000 divided by \$63,593 = 15.72, which rounds to 16 FTEs at an average cost to reach \$1 million.

This reduction would be 5% of the current total FTEs.

However, by 2020, the Personal Services costs will undoubtedly increase unless there are significant reductions in FTEs. So either the number of FTEs that would need to be reduced to achieve \$1 million in savings would be lower, or more savings would result should there be a 5% or more reduction in FTEs.

¹⁰ Includes all costs for Personal Services, including benefits.

¹¹ The Clerk’s Special Purpose Fund for Elections is not included in these numbers because those costs vary every year depending on the number and type of elections.