

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON
BOARD MEETING MINUTES
August 15, 2011**

The Board of County Commissioners for Lewis County, Washington met in regular session on Monday, August 15, 2011 at 10:00 a.m. **Commissioners Ron Averill, P.W. “Bill” Schulte, and F. Lee Grose** were in attendance. **Chairman Averill** determined a quorum, called the meeting to order and proceeded with the flag salute. **Commissioner Grose** moved to approve the minutes from the 10:00 a.m. meeting held on Monday, August 8, 2011. **Commissioner Schulte** seconded the motion.

Motion carried 3-0

Employee Recognition

“Employee” Above and Beyond

Chairman Averill announced the 2nd Quarter Employee Above and Beyond.

Smokey Padgett- Code Compliance

NOTICE

Commissioner Schulte made a motion to approve Notice Agenda items one through three. **Commissioner Grose** seconded the motion. Candace Hallom read the items into the record.

1. Proclamation: Proclaiming the Southwest Washington Fair’s 102nd Anniversary and August 15-21 as Southwest Washington Fair Week.

Chairman Averill read the proclamation into the record. He stated the Lewis County Board of County Commissioners do hereby proclaim the 2011 Southwest Washington Fair the 102nd Anniversary; and, the week of August 15-21, 2011 Southwest Washington Fair Week in Lewis County. We encourage all citizens to embrace and participate in the fair activities and entertainment provided for their enjoyment.

2. Notice of Compliance required by the Public Employment Relations Commission (PERC) findings.

Archie Smith, Human Resource Administrator, stated The Public Employment Relations Commission (PERC) recently ruled that Lewis County committed an Unfair Labor Practice (ULP) against the Lewis County Corrections Guild (case 22324-U-09-5692). PERC requires that the notice of the ULP must be read at a public meeting of the Board of County Commissioners and the notice must be posted for 60 consecutive days in the work space of the Corrections Guild. The full decision in this case is published at www.perc.wa.gov . On March 9, 2009 the Guild filed an ULP alleging that Lewis County committed the ULP by: 1) unilaterally changing the health plan contribution, 2) changing insurance plans offered, and 3) circumventing the union by directly dealing with employees about insurance plans in

violation of RCW 41.56.104(4). PERC determined there was a violation on issue 3, but not the others and the County published a notice of violation. The Guild appealed the PERC findings on the first two allegations and PERC has reversed the initial PERC arbitrator's decision and ruled in favor of the Guild on the first two allegations. This public notice of compliance and posting of the notice closes the loop on acknowledging an ULP and making remedy therefore. He then read the notice to employees into the record.

Chairman Averill stated the 2009 finding only upheld the third issue of circumventing the union. In this particular case it was a member of the staff thinking they were helping the employees by letting them know there was another plan that is cheaper. He reminded staff that we have to be very carefully when dealing with unions, that we follow the rules strictly. There is a very fine margin when dealing with the PERC board on any ULP.

3. Call for Bids: For a pedestal mounted hydraulic excavator. Bids will be opened at 11:30 am, Tuesday, September 13, 2011. Resolution No. 11-264

Tim Elsea, Director of Public Works, stated the Solid Waste Division of the Lewis County Public Works Department has determined that one of the excavators used at the Central Transfer Station is in need of replacement. Specifications for a replacement have been prepared and are attached as Exhibit "A" to the resolution. Solid Waste management proposes a call for bids from potential vendors for the purchase of a pedestal-mounted hydraulic excavator to replace the existing excavator. Bids are due by 11:00 a.m. on September 13, 2011, to the Clerk of the Board of Lewis County Commissioners (351 N.W. North Street, Room 210, CMS-01, Chehalis, Washington 98532) and will be publically opened at 11:30 a.m. on September 13, 2011 at the Commissioners Meeting Room, 351 N.W. North Street, Room 223, CMS-01, Chehalis, Washington 98532. This is a reissue of a previous bid. This Resolution approves a call for bids for one (1) pedestal-mounted hydraulic excavator and authorizes the Clerk of the Board of the Lewis County Commissioners to advertise the call for bids in The East County Journal and the Daily Journal of Commerce in Seattle and Portland.

Motion Carried 3-0

CONSENT

Commissioner Grose made a motion to approve Consent Agenda items four through ten. **Commissioner Schulte** seconded the motion. Candace Hallom read the items into the record.

4. Resolution No. 11-265 Approval of warrants and payroll for payment.

Chairman Averill stated this approves 8 Special Purpose Warrants (Vader Water System) for \$8,421.25; and, 310 warrants issued by the Auditor's Office for \$815,750.61 for a combined total of \$824,171.86. Also, approves 423 automatic deposits, 179 warrants for County Net Pay, and 62 warrants for County Benefits & Employee Deductions for a total of \$3,186,915.02.

5. Resolution No. 11-266 Reappointing members to the Public Facilities Board of Directors.

Chairman Averill stated this approves re-appointment of Pete Corwin (Centralia), David Kuper (Centralia) and Tom Lerchen (Packwood) to the Board of Directors of the Lewis County Public Facilities District. The terms of these three directors is about to expire and all have agreed to serve another four year term, ending on August 13, 2015.

6. Resolution No. 11-267 Appointing members to the Southwest Washington Fair Commission.

Michael Strozyk, Director of Central Service, stated this if for the appointment of the four citizens to serve as members of the Southwest Washington Fair Commission for a designated term as allowed and authorized under RCW 36.90.030 and Lewis County Resolution 08-295. The BOCC established the formation of the Southwest Washington Fair Commission under Resolution 08-295 which allows for a commission of seven (7) citizens to advise in the operations of the Southwest Washington Fair and Fairgrounds. Currently the Fair Commission has four vacancies. After a selection and recruitment process, the following four individuals were selected to serve as members of the Southwest Washington Fair Commission;

- Tammy Remund Centralia
- Pat Sauter Chehalis
- Richard Debolt Adna
- Ralph Hubbert Chehalis

Chairman Averill stated the Fair Commission is a very important player in the operations of the SWW Fair and fairgrounds. As many know, last year we were faced with having a shortfall in funds. We were looking at areas that we could get savings and not have to release any more employees. We looked at the \$275,000.00 the County provided to the fair. We asked the Fair Commission to work to make the fair self-supporting. He stated this year's fair is going to be one of the better fairs that we have had in a long time and most of the events are being supported by the local community. The Fair Commission has done an outstanding job.

7. Resolution No. 11-268 Appointing a member and an alternate member to the Lewis County Water Conservancy Board.

Robert Johnson, Director of Community Development, state the Water Conservancy Board is a State Board. The purpose of this board is to process water right transfers within Lewis County. Mr. Ron Mauel is a member of the Water Conservancy Board. His term will expire on September 30, 2011. Mr. Mauel wishes to resign as a regular member and be appointed as an alternate. Ms. Barbara Burres is an alternate and wishes to be appointed to the position held by Ron Mauel. The Water Conservancy Board supports the change in appointments. Ms. Burres will be appointed to the unfilled term and to an additional 6-year term which will expire September 30, 2017.

8. Resolution No. 11-269 Approving the purchase of GPS equipment for the Public Works Department.

Larry Unzelman, Public Works, stated the Public Works Department acquired GPS equipment for Survey and GIS Mapping approximately 16 years ago. Advancements in technology have increased efficiencies in new equipment and made them usable in more areas. Equipment from several manufacturers was demonstrated and tested by County field crews and the equipment from Trimble Navigation Limited was determined to be best suited to the needs of both the Survey and GIS Mapping Sections of the Department. Vendor bids from GeoLine, Inc. for the Survey equipment at \$80,245.39 and from Electronic Data Solutions at \$14,107.93 for GIS equipment, both of which are on the Washington State contract for purchasing, are considered the best bids for the equipment, totaling \$94,353.32. The Capital Expenditures portion of the 2011 Public Works budget includes \$86,000 for GPS equipment. As proposed, each of the two vendors have submitted two invoices. Some accessories have been separated and included on the second invoice. The Invoices to be paid from capital expense are for \$7,418.12 for GIS and \$78,304.16 for Survey, totaling \$85,722.28. The remaining accessories are to be paid from small tools portion of the Public Works budget.

9. Resolution No. 11-270 Approving an agreement with the Department of Social and Health Services (DSHS) Division of Developmental Disabilities.

April Kelley, Social Services, stated the purpose of this contract is to fund employment and related services for people in our county with developmental disabilities. The Division of Developmental Disabilities has traditionally contracted with counties to provide these services in our local communities. This contract provides funding for the following items:

- Administration
- Training Expenses
- Community Information
- Consumer Support
- Infrastructure

Funding will be available in the amount of \$716,690.00. These funds were anticipated for the July 1, 2011 to June 30, 2012 fiscal years.

10. Resolution No. 11-271 Approving a Collective Bargaining Agreement between Teamsters 252 representing the Combined Group.

Archie Smith, Human Resources, stated this contract will be a one year agreement dating from 01/01/2011 to 12/31/2011. For the 2011 calendar year the Employer Health and Welfare financial contributions were not changed. The current monthly employer contribution for medical insurance is \$839.03. There is no COLA for the year and Step increases are provided. Other issues that were addressed during negotiation were:

- Increased the hours of compensatory time in lieu of overtime payment from 40 hours to 120 hours.
- Use of compensatory time may be used in 15 minute interval instead of one hour.
- Developed the Environmental Services Supervisory position. Those duties that are part of the Environmental Manager position are still work possessed by management right.
- Clarified the layoff and recall language.

- Transition of the group from WCIF into Teamster Welfare Trust Fund for medical Insurance. This transition was approved by the BOCC in a separate resolution in 2010 to allow for the change at the beginning of the 2011 calendar year. The language has now been placed into the contact.

Basic housekeeping procedures were not listed as changes. These types of items generally are spelling errors, grammatical errors, and other items of similar nature. Also, clarification of policy is not listed as a policy change or modification since the essence of the policy is still the same.

Motion Carried 3-0

HEARING

Commissioner Grose left the meeting due to another conflict on his schedule.

Hearing: Open Space

Chairman Averill announced the hearing and asked for a staff report.

Dianne Dorey, Assessor, stated Open Space Timber is a taxation program that allows people between five and twenty acres to grow commercial timber and harvest it for the betterment of the State of Washington in order to help keep Washington green. We have some individuals who have applied for the Open Space Timber classification. Some of these properties have less than five acres.

Chairman Averill stated these applications have been going down as we have moved into growth management and gotten out of our moratorium. Generally speaking in timber land you need to have at least five acres unless you have a contiguous piece that you want to add to the timber program.

Chairman Averill asked if there were any more questions. There were none. He closed the question and answer portion of the hearing and opened the formal hearing.

Dianne Dorey asked that her previous comments be adopted into the record.

Chairman Averill asked if there were any other statements for public testimony. There were none. He closed the hearing and asked for a motion.

Commissioner Schulte made a motion to approve Resolution No. 11-272. **Chairman Averill** seconded the motion. Candace Hallom read the item into the record

Resolution No. 11-272 Applications of Classifications of Various Land Parcels Under RCW 84.34.

Motion Carried 2-0

Hearing: Ordinance 1225- Imposing a Moratorium on Community Marijuana Gardens.

Chairman Averill announced the hearing and asked for a staff report.

Glenn Carter, Prosecuting Attorney's Office, stated during this past legislative session the Washington Legislature enacted a measure permitting community gardens to raise marijuana for authorized users. The Legislation stated the gardens are subject to community zoning regulation. As you know the United States outlaws the cultivation and use of marijuana in all but very limited circumstances. Generally, with respect to controlled substances, federal law is the law of the land therefore causing a conflict with federal law and state law. Staff has requested the moratorium before the board to allow an opportunity to review federal law, review the state legislative action, and if possible to reconcile federal and state law on this issue. We will return our recommendation to resolve this matter within the next few weeks

Sheriff Steve Mansfield commended the Board for taking the position they are taking today. The proponents of this legislation mounted a huge effort the last two years to push this thing forward. They are organized and have all the legal help that they need to push this as far as they can. He believes that more harm than good is going to come out of this. He believes that the general population of Lewis County and across this state feels that this is not a good idea.

Chairman Averill noted that when we made the announcement two weeks ago that we would be holding this hearing the moratorium started at that time. We are reinforcing today that we want this moratorium for an additional 60 days. The Governor backed off of the original proposal in the legislation, which had dispensaries, after the Federal Attorney General's office out of Seattle wrote a letter telling people that this was an illegal operation and that state employees and local officials who allowed such dispensaries to be established might be subject to prosecution. That however did not walk over to the gardens. He asked Glenn why we are not seeing a letter on the gardens.

Glenn stated he does not think there was a necessity for another letter because the letter provided would include those actions by County officials to permit what is otherwise illegal under federal law. There are circumstances under federal law where the cultivation of marijuana can be permitted. That is what we will be looking at.

Commissioner Schulte stated it is his understanding that we are going to try to balance federal and state law. If you have community gardens and the product is close to harvest are you looking at security issues. His fear is each one of these gardens would become a flash point as outside individuals would try to raid those places. Are we allowed to look under zoning and require they provide some kind of security.

Glenn stated to the extent that it is permitted, then zoning considerations do have a place here. Among those zoning considerations are security concerns.

Sheriff Mansfield stated the drug culture is filled with violence, whether legal or illegal drugs. It involves huge amount of money and when you put those sorts of things together you are going to have problems. It is one of the draw backs to the legislation and the

people pushing this law. However, their minds are made up and now we are faced with something that we are going to have to deal with. You will see this product on the street like you have never seen before. There are some people that are going to be helped medically by it but the people that are going to be harmed by it, or families harmed by it, are far and beyond from those that will benefit from it.

Ryan Schould, Chehalis, state what can we do to resolve this issue and get along. There are different places, for example Ellensburg, that will have community gardens and there are not going to be problems. He wants to know how we can benefit everyone and work together on it. He wants to make this work for the patient. He stated medical marijuana has helped him and it is working.

Sheriff Mansfield stated this is exactly why we are looking into this now so that those who do need it can be helped.

Chairman Averill asked if there were any more questions. There were none. He closed the question and answer portion of the hearing and opened the formal hearing.

Glenn Carter and Sheriff Mansfield asked that their previous comments be adopted into the record.

Ryan Schould stated he takes a handful of pills every day and knows it is harming his body more than medical marijuana. He stated he feels this is the right thing to do for helping medicated patients.

Chairman Averill asked if there were any other statements for public testimony. There were none. He closed the hearing and asked for a motion.

Commissioner Schulte made a motion to approve Ordinance 1225. Chairman Averill seconded the motion. Candace Hallom read the item into the record.

An Ordinance of the County of Lewis Relating to Land Use and Zoning and Imposing a Moratorium on Receipt of Applications for Development of Community Medical Marijuana Gardens Upon Declaration of Emergency. Ordinance No. 1225

Chairman Averill stated it is bothersome that at the federal level, if this truly is a helpful product, that the federal drug administration can't put it on a list so it could be dispensed through a pharmacy and handled properly. This is a moratorium so we can look at this issue and decide where we are going to go. He is concerned that in the legislation that the Governor vetoed a substantial piece of that legislation and then left in this particular piece of the issue. Yet we are sitting with a letter from the Attorney General's Office suggesting that if we do the wrong thing then we could be subject to prosecution. We have to provide ourselves and our employee's protection and have time to determine what this law requires and what is best for Lewis County.

Motion Carried 2-0

There being no further business, the Commissioners' public meeting adjourned at 10:58 am on August 15, 2011. The next public meeting will be held Monday, August 22, 2011, at 10:00 a.m.

Please note that minutes from the Board of County Commissioners' meetings are not verbatim. A recording of the meeting may be purchased at the Commissioners' office.

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

ATTEST:

Ron Averill, Chairman

Karri Muir, Clerk of the Board
Lewis County Commissioners

P.W. Schulte, Commissioner

F. Lee Grose, Commissioner