

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON
BOARD MEETING MINUTES
October 31, 2011**

The Board of County Commissioners for Lewis County, Washington met in regular session on Monday, October 31, 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, October 24, 2011. **Commissioner Schulte** seconded the motion.

Motion Carried 3-0

NOTICE

Commissioner Schulte moved to approve Notice Agenda items one and two. **Commissioner Grose** seconded the motion. Candace Hallom read the items into the record.

1. Notice: Removing the load restrictions on Ferrier Bridge No. 93. Resolution No. 11-349

Tim Elsea, Director of Public Works, stated the County Engineer made recommendations to post the bridge with load restrictions and this recommendation was approved by the Board of County Commissioners via Resolution No. 11-175. We have since had it evaluated and have added a 1" bar in tension to the lower cord to strengthen this bridge. It has been reload tested and determined that legal loads no longer need to be restricted.

2. Notice of Hearing: Regarding the Adoption of the Six Year Transportation Improvement Program for 2012-2017. Hearing will be held on or after 10:00 am, Monday, November 14, 2011. Resolution No. 11-350

Tim Elsea, Director of Public Works, stated pursuant to RCW 36.81.121, all cities and counties are required to prepare, adopt and submit a six-year transportation improvement program. Copies of this program are to be furnished to WSDOT, CRAB, and the Transportation Improvement Board. The requirements for the Annual Construction Program are contained in WAC 136.16. This part of the WAC is intended to provide for an evaluation of compliance with the county forces construction limits outlined in RCW 36.77.065. The 2012 Annual Construction Program includes the following construction projects:

- Approximately 5 miles of Cement Treated Base with a Bituminous Surface Treatment by county forces
- Coughlin Road Bridge Deck Replacement
- Koontz Road Widening

- King Road Rehabilitation
- Skate Creek Rd S., MP 0.53, Bridge #12 Scour Mitigation
- Airport Road Reconstruction

A hearing for the six-year program must be held prior to the adoption. The public hearing will be held November 14, 2011. The notice of hearing will be published in The Chronicle and The East County Journal, November 2nd and 9th and on the County website. Additionally, Lewis County staff presented the proposed 2012 - 2017 STIP at the monthly Mayors meeting with the Board of County Commissioners on October 11th, the Planning Commission meeting on October 11th, and the Lewis County Transportation Strategy Council meeting on October 17th.

Motion Carried 3-0

CONSENT

Commissioner Grose moved to approve Consent Agenda items three through sixteen. **Commissioner Schulte** seconded the motion. Candace Hallom read the items into the record.

3. Resolution No. 11-351 Approval of warrants for payment.

Chairman Averill stated this approves 245 warrants issued by the Auditor’s Office totaling \$647,786.14.

4. Resolution No. 11-352 Cancellation of warrants.

Suzette Smith, Auditors Office, stated two warrants need to be canceled so they can be re-issued. Both were issued to the incorrect vendor for a total of \$1,293.62.

5. Resolution No. 11-353 Closing Senior Services Fund 199.

Suzette Smith, Auditor Office, stated this is a special revenue fund that was used to operate the senior services programs. On January 1, 2010 the Catholic Community Services of Western Washington took over the operation of that program. During the 2011 year the BOCC authorized to transfer the two remaining restricted bequest to the Meals on Wheels program to Catholic Community Services and that transfer of funding occurred in July of 2011 for a total of \$99,894.00. Those were the last remaining funds in Fund 199, so the fund needs to be closed.

Chairman Averill stated in 2009 the County contract with Catholic Community Services to run the Senior Services program and run the nutrition and transportation programs. We had this money sitting in this fund from a bequest which was specifically meant to support Meals on Wheels; we moved that funding to Catholic Community Service so we no longer need this fund.

6. Resolution No. 11-354 Approving amendment “D” to the Emergency Shelter and Homeless Prevention Grant with the Washington State Department of Commerce.

Danette York, Director of Public Health & Social Services, stated this is amendment “D” to a current contract with Washington State Department of Commerce. The contract is being extended for six months and adding funds in preparation for the State Consolidated Homeless Grant. The original contract was approved by Resolution 09-330. **\$37,362.00** in new funding will be subcontracted to local agencies as follows:

Reliable Enterprises:	\$4,400.00
Human Response Network,	\$12,760.00
Lewis County Shelter Program,	\$8,800.00
White Pass Community Services	\$5,700.00
The Salvation Army	\$3,834.00
Lewis County (Admin costs)	\$1,868.00

7. Resolution No. 11-355 Approving a lease agreement with the Cowlitz Indian Tribal Housing for a lease of real property and premises at the South County Airport.

Michael Strozyk, Director of Central Services stated during 2011 we constructed a new building at the South County Airport. The building is being used as the new airport office but it was also built large enough to house a membrane bioreactor sewage treatment facility. The Tribe is sending their sewage to us for processing. This lease is for twenty years for space in that building. The terms of the lease are in accordance with Lewis County Code 3.30.500 with an annual rental rate of \$30,960.00 of which 100% shall be offset by the County in exchange for 1/3 of the rated capacity of the MBR unit. This will allow us to development the South County Airport.

Robert Johnson, Director of Community Development, stated this has been a more than two year process. This membrane system will allow the tribal housing to develop their senior center at the old St. Mary’s mission but will also allow Lewis County to provide a sewer system to fourteen acres which we didn’t previously have.

8. Resolution No. 11-356 Approving a Perpetual Flowage Easement between the Chehalis-Centralia Airport and the City of Chehalis.

Larry Unzelman, Public Works, stated Lewis County’s Six Year Transportation Improvement Program includes the Airport Road Reconstruction Project. This project includes the extension of NW Louisiana Avenue connecting with Airport Road. The City of Chehalis will need to provide drainage for the run-off water from NW Louisiana Avenue. This perpetual flowage easement would grant the City of Chehalis an easement for the purpose of draining water from NW Louisiana Avenue into an existing pond located on the Chehalis-Centralia Airport property. It is the opinion of the Public

Works Design Engineer, based on 2006 data furnished by DCI Engineering and 1994 storm water plans data by Dowl Engineers, that the pond has adequate capacity to handle storm water run-off from impervious surfacing associated with the proposed Louisiana Avenue improvements. The attached resolution would approve the perpetual flowage easement between the City of Chehalis and Chehalis-Centralia Airport.

Chairman Averill stated the problem is that the Chehalis-Centralia Airport is owned by the City of Chehalis and Lewis County. There is an Airport Board that runs the airport for the two legal owners. In this particular case, there is a pond in the airport that can handle storm drainage. We are authorizing the Airport to grant the flowage easement to the City even though the City is part owner.

9. Resolution No. 11-357 Approving an inter-local agreement with the Cowlitz-Lewis County Fire District #20 for use of the Small Works Roster.

Tim Elsea, Director of Public Works, stated RCW 39.04.155(2)(b) establishes guidelines for Inter-local Agreements allowing other state agencies use of an established Small Works Roster. Cowlitz-Lewis County Fire District #20 has requested that we establish such an Inter-local Agreement. It appears to be in the best public interest to authorize the execution of said Inter-local Agreement in order to allow use of the Lewis County Small Works Roster in a manner that is consistent with that of the County. This will allow the Fire District to use our Small Works Roster. They can use a limited bid option for smaller projects rather than having to go out to full bids on every project.

10. Resolution No. 11-358 Approving a personal service agreement with Robert Weidner.

Tim Elsea, Director of Public Works, stated Public Works is requesting the BOCC authorize a renewal agreement with Robert K. Weidner to act on behalf of Lewis County in Washington D.C. for Public Land, Environment & Natural Resources in conjunction with Secure Rural Schools funding. The annual dues are \$7,500.00. These dues will allow Weidner to monitor and provide information on matters affecting public lands within member counties. This resolution will authorize the Chairman of the Board of County Commissioners to sign a Personal Services Agreement with Robert K. Weidner and Lewis County.

Chairman Averill stated we have had this agreement with Mr. Weidner for some time. He is a lobbyist in Washington D.C. who works with congress and federal departments and agencies on behalf of the Timber Counties. He has done an excellent job for us over the year. The Secure Rural School Funding should have run out about six years ago and he has been getting us annual extensions on that which helps our roads and schools.

11. Resolution No. 11-359 Approving a Memorandum of Understanding between the Vader Water Utility, Agency Fund 623, and the Lewis County Treasurer General Fund.

Tim Elsea, Director of Public Works, stated The Vader Water Utility transitioned to Lewis County under receivership court order in October 2010. During this receivership phase, the Vader Water Utility experienced unforeseen, extraordinary expenses which could potentially put the Utility in a negative cash flow position at the end of this year. This Memorandum of Understanding (MOU) will allow a cash flow loan from the Treasurer's General Fund to the Vader Utility Fund to cover a negative cash position until anticipated water utility revenues are received. This resolution would approve that an MOU be entered into between the Vader Water Utility and the Lewis County Treasurer for this purpose.

Chairman Averill stated it is normal for our Treasurer to get involved in these kinds of agreements with a number of our small taxing districts. Occasionally, when we get into an area that fees are paid for services, the fees are collected over a period of time. We did have to raise the fee for the Vader System that we received in receivership from the Superior court but did not start those fees until March, therefore, we are behind our collection scheduled which could potentially cause us to run into a cash flow problem. Since this is a utility we treat it like other utilities and the Treasurer is allowed to extend the loans for this purpose.

12. Resolution No. 11-360 Approving an inter-local agreement with the City of Mossyrock regarding work by Lewis County.

Tim Elsea, Director of Public Works, stated The City of Mossyrock secured \$60,188.00 in Transportation Improvement Board (TIB) funding to improve Godfrey Road and anticipates receiving \$78,188.00 in TIB funding for E. Main Street improvements. The City lacks manpower and equipment to complete this work and has requested Lewis County add this work to our 2012 Countywide 3R Program. Typically, increasing quantities of already planned Lewis County work will lower unit bid prices for both agencies. Pursuant to authority of RCW 39.34.080 and in conformance with RCW 43.09.210, this Resolution will enter the City of Mossyrock and Lewis County into an Inter-local Agreement that allows work to be performed for the City of Mossyrock in conjunction with the County's 2012 Countywide 3R Program. Upon execution of a contract acceptable to the Board of County Commissioners, Cement Treated Base and two courses of Bituminous Surface Treatment (BST) on Godfrey Road and a Hot Mix Asphalt (HMA) overlay on E. Main Street will be completed.

13. Resolution No. 11-361 Bid award for the 2011 Countywide Miscellaneous Safety and Guardrail Project.

Tim Elsea, Director of Public Works, stated this contract will provide for the improvement of various roads in Lewis County by installing guardrail, building gabion cribbing, building guardrail landings and shoulders by placing crushed surfacing top course, traffic control, and other work as defined in the Contract Special Provisions. An invitation to Bid was sent to all companies listed on the Small Works Roster-Guardrail category, on October 12, 2011. The project was also listed on Lewis County's website. Public Works received 3 responsive bids for this project on October 25, 2011. Petersen

Brothers, Inc. provided the lowest responsive bid of \$152,779.28. The engineer's estimate was \$166,671.25.

14. Resolution No. 11-362 Approving amendments to the Rural Arterial Program Project Agreement for construction proposals with the County Road Administration Board.

Tim Elsea, Director of Public Works, stated the BOCC previously approved the Rural arterial Program Project Agreement for Construction Proposal. We are asking for phasing of King Road and Koontz Road projects. We are going to ask the County Road Administration to allow for the phasing of these projects in the 2012 and 2013 construction seasons. This Resolution will authorize the Chairman to sign the Rural Arterial Program Project Agreement for Construction Proposal Amendments for these projects.

15. Resolution No. 11-363 Approving an agreement with Broadstripe, LLC to sell the remaining portion of their cable system in Lewis County to Wave Division I, LLC.

Robert Johnson, Director of Community Development, stated Broadstripe, LLC, formerly known as Millennium Digital Media Systems, LLC, operates four separate cable systems in Lewis County under a Cable Franchise, dated November 21, 1985. These four systems serve the unincorporated area adjacent to Napavine, the unincorporated Packwood area, the Glenoma and Randle area, and in the Doty/Pe Ell area. Broadstripe also serves the unincorporated area adjacent to Morton under a separate franchise agreement. Broadstripe filed for bankruptcy on January 2, 2009 but continues to operate these systems during the pending bankruptcy proceedings. In 2010, the service for the Doty/Pe Ell system was sold to New Day and the County assigned the Broadstripe franchise to New Day for that service area. Broadstripe has been undergoing bankruptcy, and as a result, the courts have arranged for the sale of the remaining assets to Wave Division I, LLC, which plans to continue providing service to Napavine, Packwood and Glenoma/Randle. Wave is in the process of purchasing the remaining system, but the franchise must be assigned from Broadstripe to Wave to complete the transaction. Wave would like to continue to operate under the terms of the existing franchise agreement. With the Board's approval, the attached Consent and Release agreement will separate the systems according to ownership and Wave will continue to operate under the existing franchise agreement. Once the final sale is approved by the bankruptcy court, an executed Assignment and Assumption Agreement will be sent to the County.

16. Resolution No. 11-364 Approving a supplemental personal service agreement between Lewis County, acting as the fiscal agent for the Chehalis River Basin Flood Authority, and Gordon Thomas Honeywell, LLP, for consulting and coordination services.

Robert Johnson, Director of Community Development, At the July 21, 2011 meeting of the Flood Authority, they approved a Personal Services Agreement extension with Gordon Thomas Honeywell for consulting and coordination services, consistent with the scope of work and cost contained within the original Agreement for a period of 90 days. This will extend the contract to June 30, 2012. On October 20, 2011, the Flood Authority authorized an extension to the original agreement, and modifying the compensation and extending the agreement to June 30, 2012. Since Lewis County is the fiscal agent for the Flood Authority, approval of a supplemental Personal Services Agreement must be done by a Lewis County Board of County Commissioners' resolution. Acting as the fiscal agency for the Flood Authority, this resolution will authorize a supplemental contract between Gordon Thomas Honeywell, LLP, and Lewis County, not to exceed \$91,040.00.

Motion Carried 3-0

Commissioner Schulte moved to approve Consent Agenda item seventeen. **Commissioner Grose** seconded the motion. Candace Hallom read the item into the record.

17. Resolution No. 11-365 Opting into the Ruckelshaus Voluntary Stewardship Program for the protection of critical areas associated with agricultural activities as required by ESHB 1886.

Robert Johnson, Director of Community Development, provided a background on the requirements under the Growth Management Act for the protection of critical areas. Under the Ruckelshaus Bill, the Board of County Commissioners must either elect to comply with the requirements of RCW 36.70A.060 and within two years review the Critical Areas regulations, codified as Chapter 17.35, Lewis County Code, and adopt critical area regulations providing such protection for such areas as is necessary in areas used for agricultural activities, or opt-into a *Voluntary Stewardship Program*. This resolution, if adopted, will provide the necessary documentation to "opt-into" the program and begin the prescribed processes under provisions of ESHB 1886 for establishment of a *Voluntary Stewardship Program*.

Under the stewardship program, adequate funding must be provided by the state. A county opting-into the program must designate which watersheds will be covered under the program and identify potential priority watersheds for consideration by a state committee that will be established to administer the program. Once funded, a requirement of the program is to designate and establish a group or committee to administer the program locally. The committee will work with farmers choosing to adopt a *Voluntary Stewardship Program* tailored to the needs of the farming community that will provide the necessary protection of critical areas where agricultural activities take place. This program will be in lieu of adoption of additional regulations. If there is not adequate funding provided by the state, or if the local committee does not make adequate progress in establishing the stewardship program, the County will be required

to adopt regulations for the protection of critical areas as related to agricultural activities within the timelines as prescribed within the Bill.

Mike McCormick, Planning Consultant, stated he was involved in the overall issue of how critical areas and critical areas for agriculture were to be implemented. In the discussion around the initiative, it was clear that something needed to be done. Initially, Ruckelshaus dramatically underestimated the complexity of the issue and that is why it took four years rather than one year to come up with a relatively complicated solution. It is a very easy analysis for the County to make, the risks are relatively small compared to the potential benefits and there is an option of opting out if the County is not satisfied with the process. The development of the Critical Area Ordinance in Lewis County went smoothly and was much less contentious than any other jurisdiction with which he is familiar. It was in large part due to the very extensive involvement process that the County had. The Consultant and County Staff did an excellent job of working issues through the technical committee, and by the time it came back, most of the issues had been resolved.

Chairman Averill stated one area we are dealing with is wetlands, streams, rivers, and creeks, in relation to the buffer requirements under the Growth Management Act. The guidance provided generally puts restrictions on wetlands that reduce the amount of agricultural land that can be used. This has been further compounded by the fact that category four wetlands have traditionally been used for farming and the Federal Government allows that if a category four wetlands is currently farmed, thus it does not fall in as wetlands. These are some of the real questions that need to be answered as we look at our critical areas and apply agriculture to them.

Commissioner Grose asked with this ordinance are we are going to be required to fence off streams or to provide buffers? What kinds of thing do you foresee being part of this ordinance as it is developed?

Mike McCormick stated it is possible that those items could be part of the package, but the advantage of this approach is that it allows for it to be tailored to the particular farm and farm operations. It does present the option for more flexibility and tailoring and that is really what is attractive to the farming community and farm bureau.

Commissioner Grose stated his objection to this bill when it was originally passed was that the funding would not be provided for the farmers who actually do the stuff that they are being required to do under the Critical Areas Ordinance. The State is supposed to be providing the funding that goes along with this package.

Mike McCormick stated his understanding is that you are not required to do any work if there is no funding from the State.

Robert Johnson stated initially if you opt into this, the next thing is to show us the money and if there is not adequate funding during a specified period of time, then we go back to square one. The issue will not go away even if there is no funding.

Commissioner Grose stated there are two concerns and they are both financial. What about the poor farmers when they can't afford to comply with the requirements of this and when there is no reimbursement from the State?

Chairman Averill stated that this is a Voluntary Stewardship Program so it is farmers who agree to the program that are bound by it. It is not a requirement by the legislation that every farmer in the county enter into the program.

Robert Johnson stated this is a pass through of responsibility from the Federal Government to the State and then to the Local Government requiring us to provide protection for these critical areas. If overall benefits provide for the loss of habitats, then we would be protected from a lawsuit. It is critical to understand that it is the Federal Government telling the State, who is then telling us, that we need to protect the water and we have to protect endangered species.

Chairman Averill asked if we opt-in and get funding, then who is going to write these Voluntary Stewardship Plans?

Robert Johnson stated that the Commissioners would appoint a committee to implement and create the Voluntary Stewardship Program within the County.

Jerry Basler stated they had three open houses. They were structured informally and advertised in both The East County Journal and The Chronicle. There were a lot of questions on what the program was.

Chairman Averill asked if there was any public comment.

John Lucas, Lewis County Farm Bureau, read an email he submitted to the BOCC on August 3, 2011.

Dan Wood, Washington Farm Bureau, stated he has been dealing with the Growth Management Act since 1991. Millions of county dollars have been wasted. He provide of list of 37 agricultural organizations that are supporting the Voluntary Stewardship Program. This is a voluntary program and will be up to the individual farms on whether they decide to participate.

Chairman Averill received an email from John Stuhlmiller, Washington State Farm Bureau, which covered the same material as Mr. Woods provided. Chairman Averill entered the email into the record.

Commissioner Grose stated he would like to proceed with caution because we have seen programs that have started as voluntary but have turned into a requirement.

Chairman Averill stated he has been involved with the Growth Management Process in our County, starting in 1993. Dealing with the Growth Management Hearings Board is

terribly frustrating because arguments which seem to make perfect logical sense will be contested before the Board and the Board will make decision in some cases for rather flimsy reasons. Unfortunately, agriculture has been the victim in many of these cases. It appears that the Growth Management Act's primary concern is that King County and Pierce County had screwed it up and had paved over their county so they were not going to let anyone else in the State make that mistake. For those of us that live in Rural Counties, it appears to be more that the people up in Seattle didn't have enough good scenery to look at and they wanted to make sure the rest of the State didn't ruin it for them so they could get away from the big city and come down to enjoy our rural environment. They put restrictions on us which they were not willing to put on themselves. The attractiveness of this legislation is that it takes it out of the hands of the Growth Management Hearing Board and puts it into a new group which consists of all the property stakeholders including the tribes, environment, soil conservation districts, and the Farm Bureau.

Motion Carried 2-0 and 1 abstained

There being no further business, the Commissioners' public meeting adjourned at 11:31 am on October 31, 2011. The next public meeting will be held Monday, November 7, 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