

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON
BOARD MEETING MINUTES
January 23, 2012**

The Board of County Commissioners for Lewis County, Washington met in regular session on Monday, January 23, 2012 at 10:00 a.m. **Commissioners F. Lee Grose, Bill Schulte, and Ron Averill** were in attendance.

Commissioner Averill stated we had an interesting week last week and had a large amount of damage out there. He had the opportunity to drive in both Lewis County and Thurston County and you can tell where Lewis County road crews are. He has gotten kudos from many citizens about the job that our crews did in clearing roads so that people could get around. The Board appreciates all of those who work so hard to provide that service.

Chairman Grose determined a quorum, called the meeting to order and proceeded with the flag salute. **Commissioner Averill** moved to approve the minutes from the 10:00 a.m. meeting held on Monday, January 9, 2011. **Commissioner Schulte** seconded the motion.

Motion Carried 3-0

NOTICE

Commissioner Schulte moved to approve Notice Agenda items one through four. **Commissioner Averill** seconded the motion. Candace Hallom read the items into the record.

1. Notice of Hearing: Regarding fixing the maximum speed limit on Joppish Road. Hearing will be held on or after 10:00 am on February 6, 2012. Resolution No. 12-016

Tim Elsea, Director of Public Works, stated citizens of Lewis County and a traffic investigation by the Public Works Department have raised concerns about the speed limit set on Joppish Road in Lewis County. An investigation was conducted, and an engineer's report prepared for Joppish Road (MP 0.286 to MP 1.775). A summary of the recommendation from this report for adjustment to the current speed limit is as follows:

Joppish Road (MP 0.286 to MP 1.775): Reduce from 50 mph to 40 mph

This Resolution will set February 6, 2012 as the date for a hearing. The notification of the hearing will be published in the East County Journal on January 25, 2012 and in the Chronicle on January 26, 2012, allowing 10 days of publication prior to the hearing date. If adopted, notification of adoption will also be published.

2. Notice of Hearing: Regarding a non-exclusive franchise to NOANET to construct, operate, and maintain telecommunications and communication facilities on all county road right of ways. Hearing will be held on or after 10:00 am, on Monday, February 27, 2012. Resolution No. 12-017

Larry Unzelman, Real-estate Service Manager, stated NOANET has requested a franchise for the construction, operation and maintenance of telecommunication and communication facilities on various Lewis County road rights of way. NoaNet is a Mutual Non Profit Corporation incorporated in the State of Washington. The Corporation was formed through relationship and funding from Public Utility districts in the State of Washington, with Lewis County PUD being a founding funder of the Corporation. NoaNet represents Public Utility Districts that have linked their fiber optic networks together to achieve economic feasibility in underserved areas. NoaNet is unique in working with customers as a partner to present a complete end to end solution, which can include more than telecommunications. NoaNet's mission is to provide low cost, advanced telecommunication and data services to rural counties in the Northwest. This mission is driven by the history of commercial, for profit telecommunications companies building fiber optic networks through rural counties without providing "off-ramps" to their networks. Through NoaNet, wholesale providers such as cable companies gain total access to the rural Northwest to serve major enterprises and government entities that require significant bandwidth to achieve future growth. This resolution will set February 27, 2012 as the date for hearing on the franchise and calls for postings and publications as required by RCW 36.55.040.

3. Call for Bids: for the proposed sale of surplus property located at 411 Mineral Creek Road, Mineral, WA. Bids will be opened on or after 10:00 am on Monday, February 27, 2012. Resolution No. 12-018

Larry Unzelman, Real-estate Services Manager, stated Lewis County acquired a house and 1.88 acres located at 411 Mineral Creek Road, Mineral, WA in 2011. The property was acquired to settle a legal claim for potential damages by the property owner. Resolution 11-338, passed by the Board of County Commissioners on October 17, 2011, declared the intent of the Board to sell the property in conformance with LCC 3.30 and instructed the Public Works department to examine the property, determine the minimum bid amount by appraisal, and then report the findings to the board. The property is surplus to the needs of the County and this resolution proposes to sell the property with very specific notices on the deed for conveyance stating that the property was acquired to settle a legal claim by the property owner, that it lies partially within the channel migration zone of Mineral Creek, and the buyer releases the County from all future claims. The property was purchased based on an appraisal. It is believed that the very explicit notices made by the County in reselling the property will reduce the value in the minds of prospective purchasers. The original appraisal is being relied upon to set the minimum bid amount, but with a discount for notices and releases. Minimum bid amount is \$100,000. To reach as many prospective buyers as possible the notice of the time, date, and place of auction will be published in the local newspaper.

4. Request for Qualifications: For the 2013 Comprehensive Shoreline Master Program Update. RFQ's will be opened on or after 1:30 pm, on February 16, 2012. Resolution No. 12-019

Robert Johnson, Director of Community Development, stated this action today will provide the opportunity to notice a call for a consultant or consulting team to assist the County and the four cities (Centralia, Chehalis, Winlock, and Morton) who will be working collectively with the anticipated funding from the Department of Ecology to do the technical work necessary as well as some of the public outreach in order to adopt the updates to the Shoreline Master Programs. The Department of Ecology anticipates providing \$450,000.00 to the County, \$125,000.00 each to Centralia and Chehalis, and \$40,000.00 each to Winlock and Morton. Some of the funding will be used for administrative costs and the majority of the funding will be used to hire a consultant to do the technical work necessary.

Chairman Grose stated we already have a Shoreline Master Program in place and if this funding has been agreed to by Dept. of Ecology what happens if we lose the funding after we have sent out an RFQ and hired a consultant? Are we obligated without the State funding?

Robert Johnson stated we are not obligated to complete our Shoreline Master Program without adequate funding from the Legislature. If Ecology has no money to fund this program then we are not obligated to complete it. The language within any agreement that we have for a consultant will be explicit that if funding is not forthcoming from the State the contract would be terminated.

Motion Carried 3-0

CONSENT

Commissioner Averill moved to approve Consent Agenda items five through nineteen. **Commissioner Schulte** seconded the motion. **Chairman Grose** noted on Friday January 20, 2012 this Board met in open session and approved an Emergency Resolution No. 12-035 Declaring a State of Emergency in Lewis County based on the inclement weather that we were having. **Candace Hallom** read the items into the record.

5. Resolution No. 12-020 Approval of warrants and payroll for payment.

Commission Averill, stated this approves 502 warrants issued by the Auditor's Office for \$1,662,795.50, and 262 warrants for net withdrawal on payroll totaling \$232,992.00.

6. Resolution No. 12-021 Re-appointment of members to the Pacific Mountain Workforce Council.

Commissioner Averill stated this approves the re-appointment of Dick Larmen (Chehalis) and Bill Sullivan (Napavine) to the Pacific Mountain Workforce Council (PMWC). The PMWC is a five county consortium that plans, develops and provides workforce training opportunities in Grays Harbor, Lewis, Mason, Pacific and Thurston Counties. The PMWC has 39 members representing the counties and state agencies and educational institutions. Both Dick and Bill have indicated their interest in serving another term.

7. Resolution No. 12-022 Re-appointment to the Timberland Regional Library Board.

Commissioner Averill stated this approves the appointment of John Braun (Centralia) to the Timberland Regional Library Board representing Lewis County. John's term has expired and he has expressed an interest in reappointment.

8. Resolution No. 12-023 Requesting a time and place for the Tax Foreclosure Sale.

Rose Bowman, Treasurer, stated this Resolution sets the date and place for the annual Tax Foreclosure Sale. At this point in time we have 46 properties for that sale. We are also working with the Lewis County Property Management Division, when a property doesn't sell at a tax foreclosure sale it becomes trust title property held by the county and trust for the taxing districts. We are going to place a list of properties at the end of this sale to try to resell them again and see if we can get those back into ownership and out of the tax trust property status. The hearing will be on Friday, February 10, 2012 at 9:00 am in the Commissioners Hearing Room.

9. Resolution No. 12-024 Cancellation of taxes.

Rose Bowman, stated in addition to real property we also have personal property on which we have to manage the collection of taxes. There is an RCW that if taxes are deemed uncollectable that the BOCC can write those taxes off. We have fewer taxes to write off this year than we have in prior years. The write off amount is \$2,822.57. These taxes related to businesses closing and the equipment not accounted for, mobile homes being destroyed, bankruptcy, and those kind of things. There is also a list of mineral rights for which the taxes are being written off. The reason we are requesting these to be written off is it cost \$400.00 to \$500.00 to process each property for sale and when the tax is less than \$20.00 it does not make sense.

10. Resolution No. 12-025 Authorizing the ratification of a Transfer Station Interim Agreement with LC Solid Waste Disposal District #1 and the City of Centralia.

Tim Elsea, Director of Public Works, stated the Transfer Station Agreement with the City of Centralia and Lewis County Solid Waste Disposal District #1 dated June 13, 2006, expired on June 13, 2011. An interim renewal agreement has been drafted that extends the terms of the 2006 agreement. The interim agreement will be retroactive to

June 13, 2011 and remain in full force until December 31, 2012. This agreement has already been approved by the City of Centralia and the Disposal District.

Commissioner Averill stated the terms of the agreement relate to the host fee that goes to the City of Centralia. The transfer station is on City property and as part of our agreement to put up the transfer station on that site we have agreed to pay a host fee due to traffic coming in and out causing damage to city streets.

11. Resolution No. 12-026 Authorizing the purchase of two new John Deere tractor brush cutters.

Tim Elsea, Director of Public Works, stated the Maintenance & Operations division of the Lewis County Public Works Department has determined that two tractor brush cutters (V-83 and V-96) in the fleet are in need of replacement and are scheduled, budgeted, and approved for replacement in the year 2012. Washington Tractor Inc. offers a tractor brush cutter through the Washington State contract (08506), with whom Lewis County has an inter-local agreement (Resolution 95-464). Lewis County has reached an agreement with Washington Tractor Inc. for two 2012 tractor brush cutters that meet our needs. This resolution will authorize the Director of Public Works for Lewis County to sign a contract between Washington Tractor Inc. and Lewis County for the purchase of two 2012 John Deere tractors and two Alamo Maverick telescoping boom brush cutters in the amount of \$267,302.45.

12. Resolution No. 12-027 Approving a letter of support from Lewis County to the Transportation Improvement Board(TIB) regarding transfer of lead agency stats along with permitting, construction, and project administration responsibilities and remaining TIB funding for the Airport Road Extension Project to WSDOT.

Tim Elsea, Director of Public Works, stated the Airport Road project was funded through the Transportation Improvement Board (TIB) with a Fuel Tax Grant Distribution Agreement in January, 2008. This project is intended to connect Louisiana Avenue to Airport Road, add a multi-use (pedestrian/bicycle path), and safety improvements to complete the corridor from Chamber Way to Mellen Street. WSDOT is concurrently planning construction in this area with their Interstate 5 / Mellen to Blakeslee Junction Project. Through previous cooperative agreements and design efforts, Lewis County and WSDOT are nearing design completion. An opportunity exists to decrease project costs by combining these construction projects into one project. This action will decrease administration costs for both agencies and increased quantities from one project will lower unit bid prices. TIB has agreed that project administration and contract costs would be minimized by incorporating the project into WSDOT's I-5/Mellen Street to Blakeslee Junction Project. Therefore, Lewis County is supporting the transfer of remaining TIB funds to WSDOT for the Construction of the Airport Road Extension Project. The proposed Resolution will allow the transfer of remaining TIB funds to WSDOT upon approval by the TIB at their January 27, 2012 business meeting and authorize the Lewis County BOCC Chairman to sign a Letter of Support to transfer

funds. WSDOT is preparing a similar letter of support to accept all permitting, construction and project administration responsibilities associated with the new Mellen Street Interchange with connection to Airport Road and Louisiana Avenue. Phase I Construction of the I-5/Mellen to Blakeslee Junction, Airport Road Improvements and the connection to Louisiana Avenue are all scheduled to begin in 2012. This Resolution authorizes the transfer of lead agency and all remaining TIB funds for the Airport Road Extension Project to WSDOT and also authorizes the Chairman of the Board of County Commissioners to sign the Letter of Support requesting this transfer.

Commissioner Averill stated this is a project that we have been working on for many years. This project involves the City of Chehalis, City of Centralia, and the County. Originally, when we were looking at improving the Airport Road we were looking at the Twin Cities Project and raising the road between Mellen Street and the dike. As the Twin Cities Project dragged on and then got canceled this past summer we are still left with what to do. It was a matter of pieces of construction belonging to Chehalis, WSDOT, Centralia, and the County and didn't make sense to have them all separated. This will be a major improvement and this will give us guaranteed access to the hospital once this project is completed.

13. Resolution No. 12-028 Authorization to accept a grant from the Department of Ecology for the mandated update of the Lewis County Shoreline Master Program.

Robert Johnson, Director of Community Development, stated the attached resolution will authorize the Director of the Department of Community Development to accept grant-funding from the state Department of Ecology to help defray costs associated with updating the Lewis County Shoreline Master Program. The state Shoreline Management Act, Chapter 90.58 RCW, requires that the county Shoreline Master Program be reviewed and updated periodically. Under state law, Lewis County and the cities within the county subject to the Shoreline Management Act must have completed the mandated update by December 1, 2013. To accomplish this, the state offers funding through the Department of Ecology. It is anticipated that Lewis County will receive \$450,000.00 funding; Chehalis and Centralia will each receive \$125,000.00; Winlock and Morton will receive \$40,000.00. This Resolution will authorize acceptance of that grant and set into motion the process for the inter-local agreements between the County and four cities necessary for administering the grant funding.

14. Resolution No. 12-029 Approving a contract with the WA State Traffic Safety Commission for the DUI/Traffic Safety Program.

Tara Smith, Social Services, stated this is a contract agreement for a two year period starting July of 2011 through June of 2013. Total funding for this project is in the amount of \$85,790.00 which is split evenly for both years. This funding is for salary and benefits only for the DUI Traffic Safety Coordinator.

Sheriff Mansfield stated this has been a great program and we have reaped a lot of benefits. This program is something that is worth while.

15. Resolution No. 12-030 Re-appointment of members to the Timberland Regional Support Network Governing Board.

Commissioner Averill stated this re-appoints Commissioner Ron Averill to the Timberland Regional Support Network (TRSN) Governing Board and Commissioner F. Lee Grose as alternate. The appointments are for two years through December 31, 2013. The appointments will ensure continued representation on the governing Board to represent the interests of Lewis County. TRSN funds and provides oversight of Mental Health Providers in Lewis, Pacific and Wahkiakum Counties.

16. Resolution No. 12-031 Updating the LC Employee Handbook Attachment Six(6), Fair Employment.

Eileen Sherlock, Human Resources, stated this is a revision to the Lewis County Employee Handbook attachments for the Fair Employment Policy. This is a policy to be incorporated in the diversity and inclusion training and is part of the employees signed acknowledgment for class completion. The policy has not been changed since June of 2001.

17. Resolution No. 12-032 Updating the LC District Court Public Defender Contracts

Archie Smith, Human Resources, stated since 2008 the BOCC has overseen the LC District Court Public Defender Contracts. They were initially on a three year cycle with an automatic one year extension. Being proposed today are eight contracts for the approval by the BOCC. The attorneys have agreed to a three year agreement. The only thing that has changed in these contracts is the language that has been added to enable the termination of such contractor if there is a violation of the contract.

Commission Averill stated when he was first elected he had a discussion with both the District Court and Superior Court. At that time the Public Defenders were being run out of the Courts. Since the purpose of the Public Defender is to represent an individual within the courts there is an obvious conflict of interest with the Courts controlling the Public Defenders. Lewis County chose a path that is different from other counties, we hire the Public Defenders individually and have one attorney who is called the Public Defender of the Day who works in both the District and Superior Courts for arraignments and also provides us with oversight if there are conflicts of interest. There are no increases in fees over the previous contract: \$240.00 per unit and Appellate representation is \$65.00 per hour with the maximum billable amount of \$1,300.00. Contracts signed by eight (8) local attorneys have been signed and are hereby approved:

- David Accuri

- Donald Blair
- David Brown
- Jacob Clark
- Joseph (JP) Enbody
- Samuel Groberg
- Christine Newbry
- Rachel Tiller

18. Resolution No. 12-033 Declaration of surplus property.

Michael Strozyk, Director of Central Services, stated this is a Resolution declaring surplus property and authorizing disposal as allowed under Lewis County Code (LCC) Chapter 3.30, Management and Disposition of Property. This list contains approximately 59 entries, including 20 Fire Extinguishers, 2 7.5 ton room AC units, 2 small generators, 7 office chairs, 17 stackable chairs (one entry), 3 TV's, a VCR, 4 file cabinets, 4 flat file cabinets, a paper folder, letter opener, lockable media storage cabinet/rack, 4 copiers, microwave, room divider and fax supplies. This will allow us to dispose those items via transfer sale or destroy those items.

19. Resolution No. 12-034 Approving a personal service agreement with Isaac Freeman (dba: Donvintage Imagination Project) for video services.

Michael Strozyk, Director of Central Services, stated back in 2011 we tried a pilot project with Mr. Freeman coming in and videotaping the Board hearings and then posting them on the internet for public viewing. We did some statistical data and it was very popular. This will allow Lewis County to have their meetings recorded and posted on a website. The contract with Mr. Freeman is for one year in the amount of \$35.50 per hour with a 2 hour minimum per week. There is a total contract maximum for 2012 of \$7,200.00 + sales tax.

Commissioner Averill stated this is a great opportunity for the citizens to learn more about their County.

Motion Carried 3-0

The Board went into recess at 10:58 am for 5 minutes.

The Board came out of recess at 11:03 am.

Hearing

Hearing: ORDINANCE1236 Medical Cannabis Gardens

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

Jonathan Meyer, Lewis County Prosecutor, stated Collective Gardens were authorized under RCW 69.51A, however, marijuana remains illegal under Federal Law. State law allows local entities to regulate collective gardens, however, the Federal Government has said they will hold government employees civilly and criminally liable for participating in licensing of marijuana dispensaries and gardens. The quandary comes, how can we satisfy the State Law and not expose County employees to prosecution under Federal Law. Regulation is needed, if we do nothing then we could have Collective Gardens next to schools, churches, parks, hospitals, and things of that nature and there would be nothing that we would be able to do about it. The main thing we have in this Ordinance is the requirement for federal approval and by requiring that we are able to protect County employees and prevent any liability on their part. Marijuana Gardens create target rich environments so we have outlined several safety steps in order to protect those that are participating in it.

Sheriff Steve Mansfield stated this road has been laid before us and is something that we must go down. This ordinance will help us navigate this road in a safe, efficient, and effective manner. Hopefully when we reach the end of the road we will have something that truly represents what the people in our community desire as well as what the medical needs of this community are. There are a lot of unknowns in front of us but this is something that we need in place to continue to guide us down this road.

Commissioner Averill asked originally this legislation was to provide for State approval. The Governor made a request of the Prosecutors for the Federal District Courts of Eastern and Western Washington and they had given her a response back. He asked Jonathan to share that response.

Jonathan Meyer stated that response lead to a lot of changes within the law and said that the Federal Government still considers marijuana an illegal substance and therefore any state or local participation in the licensing or authorizing of medical marijuana could result in civil and criminal liability.

Commissioner Averill stated it is interesting that the Governor recognized the threat to the state workers and then punted the problem down to the cities and counties.

Jonathan Meyer stated with the zoning issue, we have also placed a clause that requires the landowner must sign off on it.

Commissioner Averill asked Mr. Johnson to explain the process in establishing Fees.

Robert Johnson stated the County adopts fee annually through a resolution. This Ordinance established the authorization to charge fee and once this is adopted the Prosecutors Office, Sheriff's Office, and Community Development will establish what the costs will be to administer the program.

Rocky Fuller, Chehalis, asked for clarification on individual gardens that are not part of this; however, if you have a family that has more than one individual who has an

authorization in it by State Law they are allowed 15 plants per individual. If there is more than one individual with an authorization then are they allowed 30 plants? Would this be construed as being a collective garden?

Sheriff Mansfield stated if the need is there they can register and be part of a collective garden; but, there are some limits as far as the number of plants.

Rocky Fuller stated if it is just one individual there is no need to go through the permitting process. If there is more than one person then they need to go through the process.

Jonathan Meyer stated within the Ordinance there is a basis to ask for a variance which may be able to address the issue you are speaking of.

Chairman Grose 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.

Robert Johnson, Steve Mansfield, and Jonathan Meyer asked that their previous comments be adopted into the record.

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

Commissioner Averill made a motion to approve Ordinance 1236. **Commissioner Schulte** seconded the motion. **Candace Hallom** read the items into the record.

Ordinance No. 1236 An Ordinance of the County of Lewis Relating to Health and Safety, Amending Title 8 Lewis County Code, Adding a New Chapter 8.60 Collective Medicinal Cannabis Gardens, Consistent with the Requirements of Chapter 69.51A RCW.

Commissioner Averill stated the passage of the legislation and the subsequent rulings by the Prosecutors of the two Regional District Courts for the State of Washington pose considerable concerns. There are a lot of arguments out there made about medical marijuana. The fact of the matter is that the Federal Government has not sufficiently addressed this issue to clarify what is and what is not truth in this matter. He feels the Federal Government owes us a better look at this problem. If marijuana shows that it has a value for certain people suffering from certain condition then the Federal Government needs to address that and put it on a prescribed list of narcotics.

Commissioner Schulte stated when we looked at this among the issues addressed were the security and safety issues. We have a problem in Lewis County where if you have a collective garden that has up to 99 plants you make it an attractive target to criminal elements. We wanted to make sure safety and security issue were addressed when this was put together.

Gabriel Price, Winlock, stated he was under the impression that 45 plants was the maximum in any situation in Washington State.

Jonathan Meyer explained that one of the issues we ran into was that the law didn't say you could not have more than one community garden in a location.

Gabriel Price stated in Arizona the Governor requested that their State medical marijuana system be deemed not functional because of the Federal Laws involved and the potential for the state workers to get in trouble from the feds. The Superior Court threw it out because it has never happened before.

Jonathan Meyer stated it is one of the things that we looked at but do not want to take that risk. It is one of those things where you shouldn't break the law just because of the chance of getting prosecuted for it is slim.

Motion Carried 3-0

There being no further business, the Commissioners' public meeting adjourned at 11:30 am on January 23, 2012. The next public meeting will be held Monday, January 29, 2012, 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:

F. Lee Grose, Chairman

Karri Muir, Clerk of the Board
Lewis County Commissioners

P.W. Schulte, Commissioner

Ron Averill, Commissioner