

**BOARD OF COUNTY COMMISSIONERS  
LEWIS COUNTY, WASHINGTON  
BOARD MEETING MINUTES  
August 10, 2009**

The Board of County Commissioners for Lewis County, Washington met in regular session on Monday, August 10, 2009, at 10:00 a.m. **COMMISSIONERS RON AVERILL, P.W. SCHULTE, and F. LEE GROSE** were in attendance. **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, August 3, 2009. **Commissioner Schulte** seconded.

Motion Carried 3-0

<b>Public Comment</b>
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**R Maki, Centralia, WA**, concerned this has been published in the paper about zoning and no concern has been given to mineral rights underneath the ground. His rights to minerals are being lost to zoning.

**David Lee, Randle, WA**, Upset over the tax statements that went out. Other counties have decreased their value in property taxes. East Lewis County assessed values have doubled. When he refinanced his property, he cannot get value that he had before because of what is going on with the economy. He asked why there is an increase in the assessed values.

**Commissioner Averill** noted we are on a four-year assessment cycle not an annual cycle. Therefore, there is usually a very large range of increase because in the previous three years those properties were paying a very old assessment. You can appeal to the Board of Equalization (BOE) to have your values looked at and taxes lowered.

**Chairman Grose** explained that the BOE gives citizens a chance to appeal their situation.

<b>Notice</b>
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**Commissioner Schulte** made a motion to approve Notice Items one through three. **Commissioner Averill** seconded the motion. Karri Muir, Clerk of the Board, read the item into the record.

- 1. Request for Qualifications: For development of an early warning program for flood warning and EMS coordination in the Chehalis River Basin. RFQ's will be opened on or after 10:00, August 24, 2009.**

***Bob Johnson-Flood Authority** authorized a project for the early warning flood program. The funding for this will be from the \$2.5 million that was authorized by the Legislature and is in the budget for the Flood Authority. The Flood Authority anticipates a number of*

firms will submit an RFQ for this project. These will be opened on August 24, 2009. This project is expected to cost no more than \$250,000.

**Commissioner Averill** noted Lewis County is putting out this RFQ for the Flood Authority and subject to those being received and reviewed by the Flood Authority will then come back and approve the firm selected for the project.

**Mr. Johnson** stated that was correct.

**2. Call for Bids: For the Newaukum Bridge Stabilization Project. Bids will be opened on or after 10:00 am, August 24, 2009. Resolution No. 09-245**

**Rod Lakey, Public Works** stated bids would be opened on Aug 24, 2009. This project is a contract to provide for completion of phase I construction of bank stabilization work started in 2008 on the Newaukum Bridge. This bank protection wall will be included into the new design to protect the new structure. It is federally funded at 80% and 20% Lewis County funds.

**Commissioner Averill** noted that the original scouring was after the 2007 flood. Did we get any additional scouring after the 2009 flooding?

**Mr. Lakey** stated the banks held up and did not scour.

**Commissioner Averill** stated we had to change the orientation of the bridge in order to make it work with the new scouring.

**3. Notice of Hearing: Regarding designation of a "No Shooting Zone" in the Mt. Lakeview Area. Hearing will be held on or after 10:00 am on August 24, 2009.**

**Mr. Johnson** stated residents in the Mt. Lakeview area requested a no shooting zone. There has been a proposal made and the hearing will be held on Aug 24.

**Commissioner Averill** noted that the Mt. Lakeview addition is on the north side of Mayfield Lake near Cinebar, WA.

Motion carried 3-0

<b>Consent</b>
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**Commissioner Averill** made a motion to approve Consent Items two through eight. **Commissioner Schulte** seconded the motion. Karri Muir Clerk of the Board read the items into the record.

**4. Resolution No. 09-246 Proposed acquisition of additional right of way for Boyd Road.**

**Larry Unzleman, Public Works** Boyd Rd in Randle suffered slide damage in January of 2009. The county plans to stabilize the slope down below the road and repair the slide damage. The project requires the acquisition of additional right of way from five property owners to do this project. This resolution will allow the county to acquire the additional right of way necessary to do the repairs.

**Commissioner Averill** asked if it was just the right of way we are approving a this time.

**Mr. Unzleman** stated that was correct.

**Chairman Grose** asked what the period was to complete this project. He noted that the citizens were concerned about the project.

**Mr. Unzleman** stated they would start with the right of way acquisition immediately. It is somewhat dependent on how quickly that goes.

**Rod Lakey** stated this is a FEMA project. The slides were reviewed by their GEO staff and are being processed for the project worksheet. He noted the time frame for working with FEMA is very slow. We are trying to do this project this year, if possible.

**5. Resolution No. 09-247 Declaration of surplus property and transfer of property to Lewis County Rotary Foundation.**

**Mike Strozyk, Central Services** stated this resolution would transfer computer systems that are no longer used in the County to the Rotary Foundation.

**Commissioner Averill** asked why we could do this with computers.

**Mr. Strozyk** stated we can surplus items to 501 C3's under the state law. These are computers over five years old and are being phased out for newer technology.

**6. Resolution No. 09-248 Approving Prosecuting Attorney's Office to represent Deputy Harold Spouse and former Deputy Robert Bishop in a litigation case.**

**Paulette Young, Risk Management**, This case arises from a lawsuit over what the deputy's were doing in their jobs at the time.

**Commissioner Averill** asked if this case was before Federal Court.

**Paulette Young** stated that was correct, District Court, Western Washington.

**Commissioner Averill** noted that one of the deputy's is still working for the County, the other previously worked for the County. This is a normal procedure for indemnification and legal representation.

**7. Resolution No. 09-249 In the matter of the election related to the allocation and use of funds under Public Law 106-393 (Title III Funding).**

**Chairman Grose**, each year the County receives Federal Forest dollars in lieu of timber money. This will fund various projects. We traditionally split between Title II and Title III, this year there are restrictions. We elected to put more money into the Title II funds this year in hope of being able to fund some programs that we think are good ones. One is the Discovery Program at White Pass High School. The percentages for Title II Projects are 11% of the funds and 4% to Title III Projects in Lewis County.

**Commissioner Averill** noted that Title funds from Secure Rural School Funds started last year and we are required to do this split for both years.

**8. Resolution No. 09-250 Re-appointment of Judy DeVaul and appointment of Bill Jones as members of the Public Facilities Board.**

*Commissioner Averill, stated this resolution reappoints Judy DeVaul to a four year term, and appoints Bill Jones to a four year term on the Lewis County Public Facilities District Board. These terms will expire in August 2013.*

Motion carried 3-0

<b>Hearing/Workshop</b>
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**Hearing**

**Agricultural Resource Lands (ARL)**

**Chairman Grose** announced the hearing and explained the process. He then called on staff for a report.

**Commissioner Averill** noted that technically that we are holding these two hearings looking at the Comprehensive Plan and the Ordinance on developmental regulations. The two are related to each other. If you want to speak to both you can have your previous comments from the first hearing adopted into the record for the second hearing.

**Workshop**

**Andy Lane, Cairncross and Hemplemann**, stated written testimony needs to be received by the close of the hearing today. Citizens are not required to provide both written and oral testimony.

He gave a background on why we are here. The Growth Management Act (GMA) applies to Lewis County and has specific requirements. It requires us to consider resources lands that are devoted to the commercial production of agricultural products and that have long-term commercial significance for agricultural production. GMA uses the phrase "devoted to" commercial agricultural production. What that means is the land is either used or capable of being used for commercial production of agricultural products. The second part is long term commercial significance, so in considering whether land has long term commercial significance the GMA included consideration of the growing capacity, productivity and soil composition as well as the possibility of more intense uses of the land. The growing capacity, productivity, and the soil composition was considered by the Natural Resource Conservation Service (NRSC) and their soil classifications. With this aspect on one hand, then the possibility for more intense uses of the land, those considerations are laid out in the Washington Administrative Code (WAC). This is what is referred to when speaking on the criteria.

**Commissioner Averill** stated originally, when we went into Growth Management (GM) there was an old USDA study of the soils that was designated by the GMA as the standard for determining what soils were farm prime soils and which were not. Then Dept of Agriculture came out with new soils and we are now using new standards.

**Mr. Lane** stated that was correct. The maps have not changed but the way they are evaluated has.

Lewis County in trying to satisfy the GMA requirements has had some trouble. We have been under invalidity since 2004. The Growth Management Hearings Board (GMHB) imposed invalidity on the County because the Board disapproved of the methods the County used to identify and designate long-term agricultural lands.

In 2007, the County went through a new review and designation process and adopted the new designations. This made great strides, but there were some categories of lands and some uses where the GMHB found the county fell short. The efforts since 2008 and 2009 are laid out in a staff report. The GMHB identified certain areas of lands that the county needed to consider that we did not in 2007. Those are non-soil dependent agricultural uses, such as poultry operations, horticultural operations and fisheries. Another category is agricultural uses that are occurring in lands that have previously been designated as forestlands of long-term commercial significance (forest resource lands). This category was not evaluated in 2007. The GMHB wanted us to look at those also. In 2007, there was a whole category of soils the County did not evaluate, these are soils classified as, prime farmland if drained, and prime farm land if irrigated. The GMHB wanted us to look at those soils unless there was some demonstrated reason why we could not identify those soils. We have gone back and looked at lands that have soils classified prime if irrigated and prime if drained and tried to make a determination based on aerial photography and declarations from property owners describing what they have done to their property.

Another category that was remanded to the County to reevaluate, were lands along I-5. In 2007, those lands were excluded from designation. They were considered, but due to testimony from cities stating their future needs to expand their Urban Growth Areas (UGA's) they were excluded. The GMHB thought the designation was inconsistent. The County could not take into account-unsupported statements from the cities. We have now looked at these lands along I-5.

The GMHB objected to some County Code provisions. One of them dealt with uses that were allowed as primary uses in ARL's. Another dealt with the conversion of land that had prime soils but were used in farms for buildings and other things. In the ordinance package there are proposed amendments to the code that fixes this.

The GMHB sent those categories back to the County. Another area of review is the compliance action of 2008. The cost of converting land that was in timber use to agricultural use was too great for people to convert it. During the Planning Commission (PC) process, we heard that this was not the case. We went back and looked at the lands that were on prime farmland that were in timber use, but were not designated as forest resource lands. These were examined as potential ARL designation.

**Commissioner Averill** stated on the forest resource lands one issues is that both FRL's allow agriculture and our ARL's allow trees. There could be an argument that it doesn't matter which one you're in. They are both going to be protected either way. What did the PC decide on to make the distinction? Whether it ought to be converted from FRL to ARL if any and how much was in that category?

**Mr. Lane** stated the GB stated you have to consider commercial agricultural uses that are in FRL. The Board didn't insist that any be designated, but the total exclusion of that consideration was what they had a problem with. The Board actually expressed some doubt that any lands that were currently designated in FRL's would be redesignated to ARL's. The PC looked at the agricultural uses that were occurring FRL's. There was one area that jumped out; it was the Rain Tree Nursery. The conclusion from the Planning Commission was that it fit fine within the FRL designation and it was appropriate to keep it in that.

**Commissioner Averill** stated we didn't actually make any recommendations in that area, but we did look at it. He noted our problem on the prime soils was initially when we submitted this to the GMHB we made the assumption we could not determine if the lands were irrigated or drained sufficiently, so we did not look at it. The GMHB came back and stated you cannot do that; you have to look at it and determine whether it is irrigated or drained and if irrigated it is prime soil. If it is drained, it is prime soil and you have to put it in.

**Mr. Lane** stated that was correct.

**Commissioner Averill** stated the issue of going out and looking at each parcel was a significant task, so the Board decided that they would consider all soils either irrigated or drained unless proven otherwise?

**Mr. Lane** stated that was correct and by proven otherwise what that has meant is when we did an exhaustive review of the county looking at aerial photos. When it was clear that an area that had prime if drained or irrigated soils and it was clear from the aerial photos that the land had not been drained absent any evidence, the assumption that land was either drained or irrigated.

**Commissioner Averill** asked what is the total of land that was put in because of this designation?

**Mr. Lane** stated it was about 10,000 acres. The prime if irrigated was around 265 acres.

**Commissioner Averill** stated on the I-5 corridor we did not look at it hard enough. We pulled all the tracts and parcels that appeared to be agricultural in the corridor and the PC addressed each of them against the ten criteria and came up with the new figures in the corridor. What is that acreage that was put in along the corridor?

**Mr. Lane** stated he does not know the acreage. We haven't broken down the specific acreage.

**Commissioner Averill** pointed out that when you have ARL's the regulations allow you to plant trees on them. You can farm on FRL's and grow trees on ARL's. In Lewis County, it is not unusual to have a piece of property that is used for farming that has a significant patch of trees in it. This is one of the category's we looked at originally when we started this process back in 1993 and after. The argument in this particular case is

that you weren't big enough to get into FRL, even though you had a good patch of trees. Unless you opted into FRL you weren't covered. Now if that acreage in trees is on prime soils and then you picked up in this process. Is this correct?

**Mr. Lane** stated that is correct.

**Chairman Grose**- asked what kind of process we allow under the comp plan or County Code to allow people to change designations.

**Mr. Lane** stated there is a process in the County Code, if a landowner can show they do not have the soils the NRCS says they have. The step in changing the designation of the land is a comp plan amendment. This goes through an annual review process.

**Commissioner Averill** noted if someone believes they are inappropriately designated into one of these areas, the fees to challenge that would be excused.

**Phill Rupp**, there is a fee, but this Commission has chosen not to charge this fee. It is the recommendation that there be some limitation on the application of that fee. The application needs to be in by September to be considered the next year.

**Commissioner Schulte** asked how many times have we submitted an ARL package?

**Mr. Lane** stated three times before.

**Chairman Grose** stated each time the GMHB has asked us to do additional items.

**Mr. Lane** stated in 2004 it was the entire process that they had a problem with. In 2007, the process that the County adopted was generally okayed, but that process did not consider certain categories of land. Now we are filling in the gaps, applying that process to the lands that were not evaluated before.

He noted our deadline to take an action was August 6<sup>th</sup>. We are late. When we file a Report of Compliance to the GMHB on Aug. 21<sup>st</sup> we can meet that deadline. The Compliance Hearing with the GMHB is Oct 16<sup>th</sup>. We are hoping to get an answer from the GMHB, of a Finding of Compliance, and Rescission of Invalidity by November or December.

**Chairman Grose** asked if we do not hear from them by December and have to adopt a comprehensive plan can we do so without that information. Or do we adopt it without the ARL?

**Mr. Lane** stated that invalidity is in place on lands so if this hasn't been rescinded, there will still be that uncertainty on what that means as far as the invalidity goes.

**Chairman Grose** then if we do not get it included in the comprehensive plan this year then it is in December of next year?

**Mr. Lane** stated if you do not take action in December of this year in the normal annual amendment action, you could take it after the GMHB takes action.

**Commissioner Averill** stated we have another process that goes on behind the ARL's. This is for UGA expansions that have nothing to do with this ARL process. This is due by Jan 2010. This ARL is a case before the GMHB and once they make a decision whatever we have provided them is implemented with that decision. Is this correct?

**Mr. Lane** stated that is correct. The history before the GMHB, there was a lot of ambiguity on what the statute actually meant. The GMHB and the Courts have issued a number of decisions that have clarified the issues. When the County adopted its plan that was invalidated in 2004 it went to the Supreme Court. The Supreme Court said, GMHB you got it wrong to some extent and County you got it wrong to some extent. So the action that was presented to the BOCC and too in 2007 tried to apply what we learned from the Supreme Court decision. The GMHB in reviewing the action applied what they thought the Supreme Court decision meant also. It was met somewhat in the middle with additional areas that needed reviewed.

As far as what the County has looked at so far , in 2008 and 2009 the PC has had 15 workshops on this and 4 nights of public hearings. Initially when we presented a package to the PC, staff and consultants presented an initial packet for the PC to consider. The PC with public testimony scrutinized that initial packet and made some changes. The PC has given a recommendation to the BOCC. We have several written comments and the Planning Department have responded to hundreds of phone calls. All comments that the public provided, orally and written, is stuff that the BOCC is going to consider. There are two categories of comments: 1. Comments that the process is wrong is something the Commissioners will consider. Any changes to the process at this late stage will need additional meetings and hearings would be required.

2. Comments on how the process was applied to certain properties, those are things we may be able to change today.

All the comments, whether or not, there is any action taken on those comments today are certainly things the Commissioners can consider in the future.

After the close of the public hearing, it would be helpful to have a break to look over the comments received today.

**Chairman Grose** closed the workshop and opened the hearing. He asked if anyone would like to speak for or against the proposed ARL designations.

**Mr. Lane** incorporated his comments into the record.

### **Public Testimony**

**Scott Blinks, Carlson Family, Chehalis, WA** representing the Carlson Family. The Carlson family would like to be excluded from ARL designation.

**Katherine Thomas, Randle, WA**, her farm is a historical centennial farm. They are the fifth generation on the farm. They would like to be left out of the ARL designation.

**Dave Treffny, Winlock, WA**, Does not want to be in ARL designation. We have three wells that do not produce water. On the current well we get two gallons per minute, we can use for household use only. Without water on the ground you cannot do farming. Submitted written comments and submitted the land designations also. Believes it is not prime farm land

**Ken Olsen** left written comment.

**Lee Carlson, Mossrock, WA** Stated the property has been a poultry farm for years and that is no longer there. There are only a couple of acres left to farm. He would like out of the ARL designation.

**John Harlowe, Kent, WA** (parcel in Winlock, WA) Stated we are surrounded by small parcels. We grow hay to sustain our soil as it is. Take these parcels out of ARL designation.

**Doreen Millward, Olympia, WA**, stated she is representing Dennis Hadaller who owns 300 acres between in Ethel and Salkum. Feels the ALR designation for this property is wrong.

**Tracy Steele, Chehalis**, would like to be excluded from the ARL designation. His home was washed away in the 2007 flood. They are trying to use a structure on the property, but haven't had any luck yet.

**Dick Larman, Chehalis, WA** is in support of adoption of the ARL. We need to get certainty on how we can grow in this county. Resolving this issue is important so we can move forward in this County. The County is aging, we are losing young people. We must settle this issue.

**Sally Foister, Chehalis, WA**, would like her parcel taken out of ARL designation. There is only grass growing on the property now. They are not irrigated and not drained. Not in a flood zone so there is no silt. Traditionally it was strawberry farms. Now it is mostly houses. Would like to be excluded from ARL's.

**Richard Pine, Salam OR, O'Neill Pine Company**, does not want to be in ARL designation.

**R Maki, Centralia, WA**, concerned with zoning and mineral rights being lost with zoning. There is no consideration for them.

**David Lee, Randle, WA**, received notice from postal card sent out. Would like his 54 acre piece of property excluded from the ARL designation.

**Bob Thoede, Chehalis, WA** submitted written testimony. He stated the GMA was to preserve agricultural uses. Passing this will destroy the agricultural uses in Lewis County. Thinks this is illogical and poorly thought out. Feels bringing testimony is a waste of time.

**Gene Butler, Chehalis, WA** stated his take on the proposal is a very serious attempt to comply with the request of the GMHB. Some smaller areas need the Board's attention. One of the prime questions was whether the county took a consistent look at lands. This has been improved, but one needs to be careful in granting exceptions. Errors in designation and correction of those errors should be made. Verification should come from the experts, paid for by the county and not the land owner.

**Commissioner Averill** moved to recess until 1:30 this afternoon. Commissioner Schulte seconded the motion.

Motion carried 3-0

**Chairman Grose** called the meeting out of recess at 1:30 pm. He continued with the public testimony from the morning.

**Dennis Hadaller, Mossyrock, WA**, speaking regarding his land on Hwy 12 in Ethel, WA. He has 300 acres of land in this area. It is sad to not be able to give your children a 2-acre piece of land. If he wanted to sell the property, he could only sell 20 acres at a time. He hired a soil scientist to do the work that Lewis County should have done. He did research on how much Lewis County has paid consultants on ARL issues. He understands that the ARL designation will go with the deed of the property. He believes his land should not be ARL. Over two-thirds are in forest. He would like to be excluded from the ARL designation.

**Linda Smathers, Chehalis, WA** stated the key issue is to locate prime farm commercial land for ARL. Her parcel does not meet those standards. No acres are drained and none is protected from flood. There is no way to protect the property from flooding. The farm land is a parcel of 79 acres, but half have been designated as ARL's. She is requesting that her property be excluded from the ARL designation.

She is also representing Schumacher's (her parents) property. This property is not protected from flood. They would also like be dropped from ARL.

**Tracie Brandt, Centralia, WA** opposes the ARL designation. She believes control should be with the local entities. Opposes statement that stated we should not allow exemptions. Her and her husband purchased some property they would hope to retire to someday. This parcel has been added to ARL's. She feels that putting restrictions on this land to get number for the state is wrong. She feels the current zoning is still correct.

**Karen Capps, Napavine, WA**, the spoke on property that has been in her family for many years. Met with many entities before their property flooded a few years ago. They were offered no help. Currently there is an auto shop on the property, but there is no place to do agricultural uses on it any more.

**Mikal Aust, Chehalis, WA**, is concerned over property rights. He does not feel like he needs to get permission to farm. He knows the Board is under a rock and a hard place. He asked to let the people know what we are going to get from the State. He thinks soils

are only a part of this. His neighbors have the same soils and they are not designated as ARL. There has been no mention to property rights. We are the ones who are giving up our rights to satisfy the State. He does not know if the Board is protecting them. He asked how an increase in jobs does anything for him or improves the economy. He would like the county departments to have total buy in, such as the Assessor who knows the property owners have given up their rights. The Assessor has sent him a letter saying he did not have a viable farm. Then the Board says he is in ARL designation. He does not like inconsistencies in government. He is asking that the County be proactive in the future and make proper adjustments.

**Brian Mencke, Winlock, WA**, endorsed everything that Mr. Aust stated. He would like to know where this is coming from also. His 125 acre pieces is zoned RDD-5 today. By changing the zoning from RDD-5 to ARL, he will be giving up a lot of money.

**Stuart Nelson, Winlock, WA**, his property is zoned RDD-5. He bought it in 2006, it was not in ARL, and now it is. Agrees with the past two gentleman regarding property rights. He feels the remedy is drastic, he could see it if the parcels were growing agricultural items. This parcel is along I-5 north of Winlock High School. He thought it would be a good place for development. Feels this process is very short sighted and hurts the property owners. He thinks to be fair to property owners, if the parcel is 20 acres or less it should be excluded.

**Lloyd Pursley, Winlock, WA** he thinks an informative question and answer session would have helped the process today. Can you take ARL that does not have timber on it and convert it to timber? If you do, do you have to apply for a re-zone and will the \$500 fee apply? If you want to grow timber as a crop, you should be allowed to. The \$200 per acre has been suspended. He is afraid this is going to come back. Will the ARL designation protect us from losing our open space designation in the future? Will open space on non-ag land be protected if we are still farming it? On the other hand, will we lose our open space designation because it isn't ARL. He feels it is a mistake designating forestlands as ARL's.

**Vicki Steele, Napavine, WA**, her home was lost in the 2007 flood. Since then they have been living with their children. According to their deed, there is a business there. She wants to make sure they will be able to rebuild there again. She would like to be excluded from the ARL designation.

**Ron Mael, Chehalis, WA**, he would like the Board to review the maps and use the natural boundaries of the Newaukum River.

**Fred Breed, Salkum, WA** stated this county belongs to the landowners and we must respect the landowner's rights. We must get out of invalidity and let Lewis County prosper. He would like to extend the written comments beyond today,

**Elizabeth Hicker, Vader, WA** stated her parents bought three parcels of land hoping to develop it and give it to their children. She is concerned about her property rights. They desire to sub-divide the property so they are able to pay their taxes in the future. The zoning will not let them do this. Their soils will not support farming. She is upset that the

Board does not see a problem. She asked the Board to reconsider and give the people more time.

**Roger Iverson, Onalaska, WA**, Some people believe that if you have a larger parcel of land you can make a living on it. That is no longer true. Their property used to be a dairy of about 160 acres. The people could not sell it. They bought about 80 acres of it for a dairy. What happens when the small dairies go under?

**Chairman Grose** asked if there was anyone else who would like to testify. There was no one. He closed the hearing on the Comp Plan and opened the hearing on Ordinance 1207. He noted that the testimony would be part of this record.

**Andy Lane** explained that the ARL designation process requires two things. It requires that the County amend the comprehensive plan and the future land use map. These are the County's policy documents for land use planning. In order for those policies to be implemented, the county code (the zoning code) must be amended to implement those changes to the comprehensive plan. They go hand in hand but are two separate documents. However, technically, they are two separate documents and the amendments need to be by two separate instruments. There is no problem carrying the testimony both written and oral from the comprehensive plan onto the zoning code that we are talking about now.

**Commissioner Averill** stated we are dealing with two different documents. One sets the policy while we implement them. The second document deals with Lewis County Code. We will consider the previous comments unless someone wants to speak again.

**Chairman Grose** stated this Board is very cognizant of the issues out there. We take this to heart. We have been through a very extensive process. We do consider everything. We are under the gun, but we will consider everyone's testimony.

**Commissioner Schulte** stated that he went to his first ARL Hearing in 2003. This has been going on for many years. It is a long involved difficult process. It has been open to the public. It is difficult to reach everyone. We did a direct mailing to everyone who was directly affected. He thanked the public for coming.

**Tracy Steele**, is wondering if those who have asked to be excluded from this zoning - how long does that take?

**Mr. Lane** stated it would be the action the Board takes today. They will consider the additional comments at the break. He also noted there is time to request changes from the planning commission.

**Chairman Grose** stated the fees would be waived for this process.

**Roger Iverson** thanked the Board for sending the postcards. He feels it was prudent use of tax dollars.

**John Brannon, Salkum, WA** has 200 acres here. He has tried different farming practices and could not make it. Now 150 of those acres are in ARL. He questions how

he is able to survive. He does pay part of it to help with taxes. He feels the ARL designation is bad.

**John Harlowe, Kent, WA**, asked if there are any variances that can be granted on this ARL. Is it locked in stone? He feels if we are going to do this, there should be some compromises done. He feels there was too short of a notice and another hearing should be held.

**Chairman Grose** closed the hearing on Ordinance 1207. He noted the Board would go into recess until 3:30 pm. He called the hearing out of recess at 3:36 pm. He then opened a workshop to consider the testimony that has been given. He asked staff for their recommendations.

**Andy Lane** stated there were a number of comments submitted over the past few weeks. During the two breaks today, we looked at the written comments and went over the oral comments submitted today. There are a number of parcels that they feel should be removed today.

The following parcels are recommended by staff to come out of ARL designation based on new evidence presented by the property owners:

**028285066002      Lawrence Carlson**  
**028285066001      Lawrence Carlson**

Carlson properties: These two parcels were proposed for ARL because the Carlson's had an operating poultry operation on them. The soils were not prime farmland. Mr. Carlson provided written testimony that they had ceased operations and could no longer continue the poultry operation because the demands of Foster Farms and Draper Farms made it impossible for them to continue. Absent the ability to raise chickens, this property is not of long-term commercial significance.

**022283063002      Julie Balmelli-Powe**

Balmelli-Powe property: This is a 6-acre parcel that was segregated from a larger (50-acre) parcel by the Assessor. This segregation was apparently a correction of a mis-read legal description and the two parcels are now in separate ownership. The 6-acre parcel is on prime-if-drained soils and Ms. Balmelli-Powe confirmed that the parcel was not drained. It is also in an area where the predominant parcel size is less than 20 acres.

**019015001000      Smathers**  
**018276002000      Schumaker**

The Smathers/Schumaker properties: These two parcels are on soils that are prime-if-drained and protected from flooding. Ms. Smathers confirmed that the parcels were not drained and it was impossible to protect them from flooding due to their location at the bottom of a drainage basin.

**015500001000      Starnes**  
**015500004000      Starnes**  
**015500005000      Starnes**  
**015502001000      Janke**

Starnes/Janke properties: This group of parcels comprise a 65-acre proposed ARL. One of the Starnes parcels (20-acres) was used for poultry operations, but they testified they are discontinuing this use due to the change in the business demands (as also testified by Carlsons). This parcel has a very small amount of prime soils, mostly non-prime, and with some prime-if-drained soils. It is not drained. This 20-acre parcel was appropriate to remove from the ARLs. The remaining 45 acres resulted in a small island of ARL. Rather than have this small island, all of this 65-acre proposed ARL was removed.

There was one parcel that came to our attention that was actually an access road, that was included within ARL designation. These are things that typically the GIS Department can administratively resolve. The property owner is Fenstermaker the parcel # is 15108-4. We recommend this come out also.

**Mr. Lane** stated these are the recommended changes.

**Commissioner Averill** stated there were a number of people who said they had less than five acres. Planning Commission stated they were not going to recommend parcels under five acres.

**Mr. Lane** stated that is how the recommendation should look. If there are parcels that are smaller than five acres. They looked at larger parcels as a whole. There may be smaller parcels within those that are included in the ARL designation. There shouldn't be any small parcels

**Commissioner Averill** noted the Steele property that washed away. Was this parcel looked at?

**Mr. Lane** stated it an area that is part of a larger area that is proposed for ARL designation.

**Commissioner Averill** stated he understands where the rational for this is, but the problem is there is a single piece of land owned by one person who is a hobby farmer. If a contiguous owner is ARL owned it, he would agree with the recommendation.

**Commissioner Averill** moved that this parcel be removed from ARL designation.

**Commissioner Schulte** seconded the motion. This parcel #017293002000 owned by Kristine Steele.

**Mr. Lane** stated we have to be consistent when we review the requests today. There are a number of parcels that are surrounded by ARL designation. We need to be careful when looking at those.

**Commissioner Averill** stated he understands that, but this is a piece of property that has flooded and they do not even know if they can go back in and use this property.

**Chairman Grose** stated the criteria we used that sticks in my head is long-term commercial significance. Has a problem of anyone being able to make money on a piece of property that is two acres.

**Commissioner Schulte**- stated he was going back to the criteria. It (E) says predominant parcel size. (F) says land use settlement patterns and their compatibility with agricultural practices. He does not know who can do commercial agricultural on small parcels on a riverbank. The history of land development and permits issued shows that land was once permitted for an auto shop. If you take these criteria, it is possible to remove that from ARL without varying from the standard criteria we have used up to this point.

**Mr. Lane** stated that is the analysis we need to have on this. It needs to be a system wide process. He recommends keeping this as ARL designation.

**Commissioner Averill** stated we see almost every meeting when we deal with a land issue in this county that property is divided up in unusual parcel sizes. We talk about the process of identifying ARL's , the reality is that we've been settling in this valley since 1858, there are many parcels out there that are one or two acres that farm. When we started into the GM process we had a lot of people that jumped out quickly thinking they would be tied up, and they divided their land into five acre parcels. And some of them would have two or three acres next to them. He can understand if he has five acre parcels that are contiguous, and thus have one owner that owns 60 acres. I do not care if he has an acre parcel in the middle it is still ARL. My problem is that a single landowner is caught in the middle of the ARL designation. They do not have an alternative. It's not like adding onto my other 60 acres and continuing on to farm or do something with it. They are alone. I do not know how many we got out there, but this one we know, they came to us asked us about it. I counted 35 testimonies today and this does not include the written comments. Of the thousand postcards, we sent out, we have less than 100 or so that came and testified. Some are legitimate and some of them are not. We are having to make some decisions with this. I am having a trouble saying we are setting a precedent that opens the door that gets us in trouble - to let this one property owner out who came with proof and said they do not qualify.

**Mr. Lane** understands, but this is a limited situation with unique facts.

**Chairman Grose** stated he understands the issues on both sides.

Motion carried 3-0

**Commissioner Schulte** asked about the property on Brown Rd (Foister property) that is not irrigated and is not drained and there is power lines going through it. Why wasn't this recommended for removal?

**Mr. Lane** stated it is surrounded by other ARL properties.

**Chairman Grose** asked why on the Foister property there was a horseshoe on it.

**Mr. Lane** there are many smaller parcels there. It is part of a housing development.

**Commissioner Schulte** stated he is looking at that block and north on Erkhart Road it is all small parcels and there is a small parcel across the street on Brown Road. Ms. Foister testified that there are small parcels on three sides of hers, no irrigation, no

drainage, power lines run through the property, and the practice on the other side is forest, Port Blakely. He feels like this property has met at least four of the criteria to be excluded from ARL designation.

**Chairman Grose** suggested this be moved forward and ask Mrs. Foister to look for a re-zone on this property if it is appropriate at that time.

**Commissioner Averill** moved that the ARL recommendation properties be removed from the ARL land designation. **Commissioner Schulte** seconded the motion.

Motion carried 3-0

**Mr. Lane** went over what was included in the ARL packet with the resolution and Ordinance 1207

**Phill Rupp** stated December 31<sup>st</sup> would be a good day to cut the reduced fees off for applications. It would only be those lands designated through this last process.

**Commissioner Averill** stated the other owners have had the opportunity to file for a new land designation before.

**Mr. Lane** clarified that the motions with the changes will be written on the maps, and the Ordinance and Resolution so they will be incorporated into the record for today.

**Chairman Grose** closed the workshop and asked for motion to approve Resolution 09-251.

**Commissioner Averill** moved to adopt Res 09-251 as amended. **Commissioner Schulte** seconded the motion. Karri Muir, Clerk of the Board read Resolution 09-251 into the record.

Motion carried 3-0

**Commissioner Averill** stated he has been involved in this process for a long time. The GMA was passed by the Legislature in 1991. It was supported very strongly by the communities in Pierce and King County who felt they had made a mistake and paved over some of the best agricultural land in the state. They were then going to protect the rest of us from making the same mistake. Unfortunately, when the Legislature passed GMA, and one of the criticisms from citizens is that the original intent of the GMA Legislation was to plan from the bottom up. Unfortunately, the combination of the GMHB and the Department of CTED set forth and produced guidelines that were to be used by counties and they generally resulted in top down planning. It was initially understood that in the GM Plan not all counties would qualify to come under GM. Lewis County, because of its small population, met the 10% threshold for coming under the GMA in 1993. Cowlitz County has met the threshold 3 times and 3 times their Legislative Delegation has gone to the Legislature and changed the threshold. Still today, they are not in Growth Management.

I participated in our first Comprehensive Growth Management Plan, which we submitted to the GMHB in 1998. At that time we believed that agriculture to be effective in Lewis

County required water and since there were only 11 thousand acres of agricultural property with water rights that is what we submitted. It didn't get turned down initially. The GMHB felt that our Rural Development Districts (RDD) were improperly done. What we had done in our RRD is follow the Thurston County plan which had already been adopted. That put RDD's in one house in five acres countywide. The GMHB came back and said you cannot do that. You have to have a mix of RDD's. They allowed that we could do that in 5's, 10's, and 20's. Forest land and ARL and mineral land have different issues and there are different criteria set for them. We went back to the drawing board and redid our RDD's and they were adopted and the GMHB accepted them, but said you never cleared your ARL's and those do not qualify. As a result, we had about 130,000 to 160,000 acres that the board found in invalidity in Lewis County., and asked us to go back and look at this. I chaired the committee that came up with the new plan in 2003 with 47,000 acres. That committee consisted of mainly people that were in agriculture or supported agriculture endeavors. One of the things you have to understand in Lewis County is this is not Eastern WA. When GMHB formed the criteria for ARL's they did it on an Eastern, WA model. This was intended predominately for much larger row cropping agriculture. Lewis County is not agricultural void, but we are predominately forest. There are 900,000 acres of our 1,000,500 acres in FRL's. Our ARL land is down the valleys of the three major rivers that form our county's basic river basins. The average lot of agriculture is about 49 acres. The average income is \$10,000. This is poverty level; our average farm does not make it. We have been subsistence farming for a long time and there are very few farms, other than our poultry operations, some of our dairy operations, and some of our larger cattle operations that make it alone on farming. They have to have another income in the family. Like you, I am not happy in where we have to go in GM. I have gone to the Legislature with a number of changes. Been to the Courts twice and provided some relief. It has cost us. Since 2003, we have had 163,000 in moratorium and haven't been able to do anything. There are many of us in the Farm Bureau that believe this should end. Set a level so we can give some assurance to the property owner on where they stand and what they do with their property. We cannot do that until we get something into the GMHB, which is going to be adopted.

There are some of you who have not found out where you are at until recently. On the other hand, we have been working hard on this plan since 2003. The PC has been meeting for the last five years two and three times a month until 10:00 pm. They have fought hard to try to get us a plan that provides some rationality but meets the requirements that are being pushed on us by the GMHB. I do not like this plan and I do not think it is the best solution. I think we have come a long way. We have a plan now, which can be accepted. We have a number of people who have been fighting us on this plan that look at this and say there are things they would like, but this is closer than we have ever been. That gives me some hope that we can close this chapter and move on. We have people who have been sitting in this county that need to do things. You heard from our Director of our Economic Development Council, we had nine cities and towns who have tried to expand their UGA's, but have been unable to do so because we have been in moratorium under our ARL's. People are leaving because they cannot find work. The timber industry is stagnate. The agricultural industry is having serious problems and we have no alternative. On the other hand, we need to acknowledge the fact that agriculture is a force in Lewis County. Statistically we produce somewhere between \$89 and \$110 million dollars in agriculture sales Three hundred and thirty

thousand acres are in Agricultural Open Space. We put them in there because those property owners told us that they were in agriculture. They are getting a tax break for being that as a means of protecting land for agricultural use. Other citizens pay the price for that. Every piece of agricultural land that is in Open Spaces is getting taxed at 1/6<sup>th</sup> the value it would be in the open market. That does not mean that the taxes do not have to be paid, they are spread to the people who aren't in Open Space. We do have agriculture. It is very difficult from a rational standpoint to argue that we do not have land in agriculture and we should not have ARL's. We can argue that there is too much, but I think that given the work that has been done, what we are offering is reasonable. Therefore, with the exceptions that we took out I am going to vote for this resolution. This does not mean it is over. There will be additional opportunity for property owners to get out of ARL designation. We will relieve the owner of that cost until December for the fees in order to do that.

**Chairman Grose** stated there is not a piece of legislation that is perfect. We have acknowledged the hard work and difficult job of the Planning Commission, staff and consultants. We have spent hours to make a good document. Not just to satisfy the GMHB, but to satisfy the people of Lewis County. It is not over but, would like to get this part over.

**Commissioner Schulte** moved to approve Ordinance 1207. **Commissioner Averill** seconded the motion. Karri Muir, Clerk of the Board, read Ordinance 1207 into the record.

**Commissioner Averill** and **Chairman Grose's** previous comments are adopted into the record.

Motion carried

Meeting ended at 4:49 pm.

**Chairman Grose** announced we would be in recess until Thursday, August 13, 2009 at 8:30 to consider the sale of bonds.

The Board of County Commissioners for Lewis County, Washington came out of recess on Thursday, August 13, 2009, at 8:40 a.m. **COMMISSIONERS F. LEE GROSE and RON AVERILL**, were in attendance. **COMMISSIONER SCHULTE** was absent as he was attending a WCIF meeting in Sea-Tac. **Chairman Grose** determined a quorum and called the meeting into session

Rose Bowman introduced Roy Koegen, bond attorney. Various questions were asked by **COMMISSIONERS GROSE and AVERILL** regarding the maturity date and rates. Mr. Koegen reported that the sale on Tuesday went well and there were five bidders on the bonds. He reported that we saved 13%, and after all costs, there will be a \$667,000 savings to the taxpayers. This equates to a \$59,000 saving per year.

**COMMISSIONER GROSE** asked about a greater principle amount but a lower rate. Mr. Koegen confirmed that we were replacing these bonds in which we had less principle, but at a high interest rate.

**COMMISSIONER AVERILL** made a motion to approve Resolution No. 09-252. The motion was seconded by **COMMISSIONER GROSE**. **COMMISSIONER GROSE** had Karri Muir, Clerk of the Board read the resolution into the record, "Resolution No. 09-252 approving sale of the County's limited tax general obligation refunding bonds series 2009." The amount of the sale of the bonds is \$4,925,000.

Motion carried 2-0

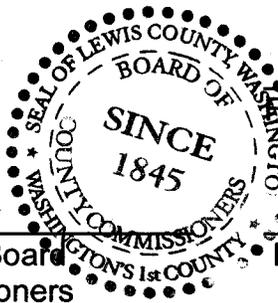
There being no further business, the Commissioners' public meeting was adjourned at 8:50 a.m., on August 13, 2009. The next public meeting will be held Monday, August 17, 2009 at 10:00 a.m.

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:**

*Carpace Hallam for*  
Karri Muir, Clerk of the Board  
Lewis County Commissioners



*Lee Grose*  
Lee Grose, Chairman

*Ron Averill*  
Ron Averill, Commissioner

*P.W. Schulte*  
P.W. Schulte, Commissioner