

**BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON
BOARD MEETING MINUTES
January 25, 2010**

The Board of County Commissioners for Lewis County, Washington met in regular session on Monday, January 25, 2010, at 10:00 a.m. **COMMISSIONERS P.W. SCHULTE, RON AVERILL and F. LEE GROSE** were in attendance. **Chairman Schulte** 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 11, 2010. **Commissioner Grose** seconded the motion.

Motion carried 3-0

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| Public Comment |
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Linda Smathers, Napavine submitted an inquiry regarding 4-H Council By laws.

Commissioner Averill noted that the BOCC does not run the 4-H Program, it is run by WSU. The appropriate procedure for her inquiry would be to go through the WSU program.

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| Notice |
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Commissioner Grose made a motion to approve Notice Items one through six. **Commissioner Averill** seconded the motion. Karri Muir, Clerk of the Board read the items into the record.

- 1. Notice of Hearing: Regarding condemnation action to acquire certain trees near the Packwood Airport. Hearing will be held on February 8, 2010 on or after 10:00 am. (Notice was published on January 20, 2010)**

Commissioner Grose noted that the Federal Aviation Administration considers the trees to be a threat to airplanes approaching the Packwood Airport. This issue has come before this Board several times in the past and the owners of the trees did not seem willing at this point to negotiate the issue with us. We are taking the steps necessary for condemnation. He noted that the owners have recently given us a little more leeway and do plan on resolving this issue prior to this hearing. We are hopeful that will take place.

- 2. Notice of Hearing: Regarding a license to the AT&T Corporation. Hearing will be held on February 22, 2010, on or after 10:00 am. Resolution No. 10-016**

Larry Unzleman, Public Works, stated this resolution is for a nonexclusive license to the AT&T Corporation to construct, operate, and maintain telecommunications facilities on County right of way in Lewis County. The AT&T Corporation has had a fiber line along Hwy 603 near Winlock, WA. Their existing licensed has expired and this will

serve to renew their rights to occupy the Hwy 603 right of way. The AT&T fiber line generally runs with in the railroad right of way adjacent to the Hwy 603 but in this area crosses the road to an AT&T site then re-crosses the road back to the railroad right of way. This resolution will set the hearing date.

Commissioner Averill stated the renewal is for five years and when we say non-exclusive that means that someone else can use the right of way.

Mr. Unzleman stated that was correct.

3. Notice of Hearing: Regarding the final 2009 Budget Amendment. Hearing will be held on February 8, 2010, on or after 10:00 am. Resolution No. 10-017

Dawna Truman, Fiscal stated the estimated amount of the amendment is \$10,500.00. We will not know the final amount until the Auditor's Office closes out the finance system for 2009.

4. Notice: Calling for the Establishment of an On-Call Consultant Roster for Architectural, Engineering, and/or Professional Service Assistance needs for County Projects. Resolution No. 10-018

Rod Lakey, Public Works, stated this resolution is an annual requirement that will allow the opening of the On Call Consultant Roster to obtain applications from businesses interested in having their business placed on one or more of the rosters. The On Call Roster allows the County to possibly consider consultants for projects requiring architectural, engineering and/or professional services.

Commissioner Averill noted this is a roster that is maintained by the County and allows us to have a quicker process so we do not have to go out for RFQ's, and RFP's.

Mr. Lakey stated that was correct.

5. Notice: Publishing the Small Works Roster for Lewis County. Resolution No. 10-019

Rod Lakey, Public Works stated this is an annual requirement and the resolution will allow the opening of the Small Works Roster to obtain applications from contractors from a list of categories. The Small Works Roster allows the County and agencies holding inter-locals agreements with the County to use contractors on the established list for projects between \$35,000.00 and \$300,000.00. Agencies currently holding inter-local agreements are: LC Conservation District, LC Fire District #8, LC Fire District #11, LC Fire District #15, LC Water District #1, and the Chehalis/Centralia Airport.

6. Call for Bids: For the Newaukum Bridge No. 20 Replacement Project-Phase 2. Bids will be opened on or after 10:00 am on February 22, 2010. Resolution No. 10-020

Rod Lakey, Public Works, stated This project is listed as #6 on the STIP. He went over the project details. The project is funded 100% by FHWA.

Commissioner Averill noted that this was first part of our normal bridge maintenance process. This project started two years ago and with the floods the banks to this bridge were scoured badly. We needed to change the approach and other issues to protect against future flooding. The price of the project has gone up considerably since the project was started, so we needed approval from FHWA before we could start.

Motion carried 3-0

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| Consent |
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Commissioner Averill made a motion to approve Consent Items seven through seventeen. **Commissioner Grose** seconded the motion. Karri Muir, Clerk of the Board read the items into the record.

7. Resolution No. 10-021 Bid award for the Lewis County Low Cost Run Off Road Safety Improvement Project.

Rod Lakey, Public Works, stated this resolution would award this project from the LC Small Works Roster to Stripe Rite, Inc. Their bid was in the amount of \$105,556.00. This was above the Engineer's Estimate of \$102,250.00. Due diligence was taken in order to get a competitive bid and the low bidding company was within the normal acceptance range of the Engineer's Estimate.

Commissioner Averill asked Mr. Lakey to give a definition of a low cost run off program.

Mr. Lakey stated various roads are higher traffic roads, Federal Functional Routes, such as Jackson Highway, Harrison Avenue. Recessed pavement markers and flexible guide posts will be done in this project on those roads.

8. Resolution No. 10-022 Approving a deed from Albert Justice to Lewis County for a donation of property off of Kehoe Road.

Rod Lakey, Public Works, stated Albert Justice, owner of two parcels of land in the Silvercreek area of Randle, WA, has requested that Lewis County accept a donation of his property. This property is subject to flooding and has no physical access. Lewis County may be able to use this property as possible mitigation sites in conjunction with properties we own in this area.

9. Resolution No. 10-023 Publishing the cost and brief descriptions of construction projects performed by County Forces in the excess of \$10,000.00.

Rod Lakey, Public Works, stated this resolution will authorize the publication of the work completed by County forces per RCW 36.77.070

Commissioner Averill noted that we were using the wording "Day Labor" and the unions got involved. As a partial fix, the Legislature decided to change the name to

"County Forces". There are strict procedures we have to follow in case we want to use County Forces to comply with the laws and the concerns of the labor community.

10. Resolution No. 10-024 Authorizing two inter-local agreements with adjoining counties for an environmental review of a major wind power generation facility.

Bob Johnson, Community Development stated this resolution authorizes the BOCC to enter into two separate inter-locals, one with Pacific County and the other with Grays Harbor County. The purpose of these agreements is to provide lead agency authority to Lewis County as we process the Coyote Crest Wind Park proposal.

Commissioner Averill stated we are taking the lead agent instead of having three separate processes going on at the same time and the potential for conflict of interest between the three counties. Lewis County will lead the process through.

Commissioner Schulte stated the reason we are the lead is because 43 of the 46-47 wind towers are actually in Lewis County.

Mr. Johnson stated the majority of the first phase of the project is in Lewis County. This makes it appropriate for Lewis County to be the lead agency on the project.

11. Resolution No. 10-025 Amendment to the inter-local agreement with the State Office of Financial Management to provide \$2.5 million in funding for Lewis County, acting as the lead agency for the Chehalis River Basin Flood Authority.

Bob Johnson, Community Development stated this is the second agreement with OFM. The purpose of the inter-local is to amend the original agreement whereby Lewis County acting as the lead agency for the Flood Authority received \$2.5 million dollars funding to operate the Flood Authority and do the studies necessary. That original agreement had within it a budget for certain kinds of line items for expenditures. It was amended previously because there was not adequate funding within some of those line items. As long as we do not go over the \$2.5 million, OFM allows us to amend that agreement.

Commissioner Averill stated this is a housekeeping measure. The new manager within OFM wants the accounts to be budgeted by line item so when changes occur we have to adjust specific line items. This is not new money, just how it is handled.

12. Resolution No. 10-026 Rescinding resolutions providing imprest account, cash tills, and petty cash for the Senior Centers Fund 199.

Danette York, Health and Social Services, stated to enable the Senior Centers to service the basic needs, these funds were established. Since the senior programs are not with the county any longer, the resolutions that set up these items need to be rescinded.

Commissioner Averill stated the reason we are doing this is because we have contracted with Catholic Community Services to run our Senior Centers and we no longer need these funds.

13. Resolution No. 10-027 Appointment of a member to the ATOD/CMASA Advisory Board.

Tara Smith, Social Services, stated this resolution will appoint Gary Swinth to the advisory board. He will be filling the youth position on the board and is a senior member of the LC Youth Prevention Team.

Commissioner Averill stated Mr. Swinth is filling the youth position. This brings the board to ten members.

14. Resolution No. 10-028 Transfer of leave for an employee from Facilities Fund No. 507 to Solid Waste Management Fund No. 401.

Michael Strozyk, Central Services stated as part of the 2010 budget reduction the Facilities Department eliminated one position. This employee was able to transfer into another position in Solid Waste. This resolution will allow the transfer of leave from one fund to another.

Commissioner Averill stated that in Government there many different funds which we operate out of. All the personnel funding is not in one fund, it is separate within different departments. As policy, the County allows an employee transferring from one department to another to carry over accumulated annual and sick leave balances.

**15. Resolution No. 10-029 Approving the Teamsters Assessor's Contract.
Archie Smith, Human Resources**

Archie Smith, Human resources, This is an agreement between Lewis County, Assessor's Office employees and Teamsters 252 that represents those employees. The primary issue was transitioning from a two-tier insurance rate down to a single composite rate. We were able to do this and we kept the Assessor's Office within its budgetary constraints.

Commissioner Averill stated we have a number of unions we work with in the County. We are in the process of bargaining the annual contracts. One of the issues this year has been insurance. Most employees have WCIP insurance. WCIP has changed their rates and their procedures this past year. We have been working with the unions on these insurance rates.

16. Resolution No. 10-030 Notice of intent to use the County's allocation of Recovery Zone Economic Development Bonds and Recovery Facility Bonds.

Rose Bowman, Lewis County Treasurer stated this is a nationwide program under the ARRA. They have allocated money for economic development purposes. We are not issuing these bonds at this time, but if we do not reserve our right to issue them,

then we will not have a chance to go out there and look and decide if there is a way we can use them. If we do not use them, they go to another entity. This resolution will let the Department of Commerce know that we do intend to use them at this time.

Commissioner Averill stated there are two bonds; one is the Recovery Zone Economic Development Bond (\$494,000.00) and the other is a Recovery Facility Bond (\$740,000.00)

Ms. Bowman is working with the Economic Development Council to review possible projects for these bonds.

17. Resolution No. 10-031 Cancellation of taxes.

Rose Bowman, Lewis County Treasurer, stated these are personal property taxes that the Treasures Office has not been able to collect. This resolution will authorize the cancellation of these taxes.

Commissioner Averill stated there are a large number of these taxes but for the most part are very small amounts of money. We went through a collection agency to try and get these back taxes and were unsuccessful. The total for these taxes is \$4,031.00.

Motion carried 3-0

Commissioner Grose made a motion to recess for five minutes. **Commissioner Averill** seconded the motion.

Motion carried 3-0

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| Hearings |
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Hearing

Vacation of John A. Anderson Rd

Chairman Schulte announced the hearing and called for a staff report.

Greg Snelson, Public Works, stated letters were requested by property owners requesting this property be vacated. The Board followed the procedures to start the process to vacate the John A. Anderson Road. The Engineers report was read into the record.

Commissioner Averill stated he knows that this road is posted as minimum maintenance which means we, as County Forces, do not maintain this road on a regular basis.

Mr. Unzleman stated it would not be up to normal maintenance standards of County road.

Commissioner Averill stated that both property owners have asked that this be vacated. He asked if there are any easements that may be a problem.

Mr. Snelson stated that the property owners have retained easements to the property.

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

Mr. Snelson asked that his previous comments be adopted into the record.

Commissioner Grose asked what would have happened if we had not declared the moratorium on those lands?

Mr. Rupp stated there were some lands that were designated ARL that we took the designation off so they could be studied. These lands were subject to vesting of development proposals. The addition of the moratorium was to assure the public that was concerned and the WWGMHB that the County was serious about reviewing the land and the suitability for ARL's. This was a protection of land that did not have any zoning on it and it was an indication that the County was serious about what we were doing.

Commissioner Grose asked what kind of sanctions would have been put on the County if we did not do this.

Commissioner Averill stated that the GM Law allows the Governor to withhold certain taxes from a County if they fail to comply with the GMHB.

Commissioner Grose asked if it would have made it difficult to pass our comprehensive plan with those sanctions in place, had we gone forward and let building occur on those lands.

Mr. Rupp stated we would have been in violation of the invalidity order.

Chairman Schulte asked if there were any questions on Ordinance 1211.

Sally Anderson asked questions regarding her properties and if they could be sub divided.

Mr. Rupp let Ms. Anderson know that he would discuss this issue with her after the meeting or at a later date.

Chairman Schulte asked her to talk to Community Development and they will look at her property.

Rhonda Nowicki asked if the moratorium is lifted will property owners have to request a change of zoning, or will it automatically be re-zoned?

Commissioner Averill stated the property will be zoned what the Planning Commission has already zoned it. If it is not zoned to your satisfaction you will need to talk to Community Development to start the process to have it re-zoned.

Bill Randall, Toledo, WA asked if staff would talk to the Chronicle about their reporting.

Chairman Schulte closed the question and answer portion of the meeting and opened the formal hearing.

Mr. Rupp asked that his previous comments be adopted into the record.

Chairman Schulte called on the citizens who signed up to speak at the hearing.

Susie Kyle, Winlock, WA asked as we move forward with lifting the moratorium she asked the Board to give the agricultural community the same attention they will be giving to industrial and commercial development. The BOCC has an opportunity to make Lewis County a great community. She is not against development; she is against development that interferes with agricultural resources.

Commissioner Grose asked if she was aware that people that have their land in agricultural open space receive a tax break. There is a requirement to show a certain amount of revenue to stay in that program. He has several people come to him and tell him they cannot afford to work this land, they cannot make a profit from the land. They do not want to remove the land from the agricultural designation; they still want to work the land. This is the State law we are up against. He encouraged her to write to her Legislators regarding this state law and try to get this changed.

Dennis Hadaller, Mossyrock, WA stated it's a sorry day for Lewis County. He has trouble with the way the ordinance reads. He is concerned about the school districts that are in the middle of ARL's. The Onalaska School District is going to be hurt in the ARL's designation. The Fire Districts and Cemetery Districts are going to suffer also. He asked if the BOCC is going to fund an extra Assessor's position to go out and look at the lands that have been designated ARL's. He does not believe fees should be charged when a taxpayer has no say on how their land is going to be zoned. The County should pick up that tab and have all the taxpayers pay for this.

Commissioner Grose stated regarding the revaluation of agricultural land causing a hardship to the school districts and fire districts, he does not feel anything has changed with regards to that with the lifting of the moratorium. Those lands were already designated agricultural lands and taxed accordingly. He does not view this as a change in the existing procedures. He knows what Mr. Hadaller is saying. If we were able to develop that land further, then it would provide better tax opportunity for those districts, rather than leave it in agricultural land.

Mr. Hadaller stated they were not all in agricultural land. His property was not in agricultural land until 1997 when the GMHB started.

Commissioner Averill pointed out that what we are talking about are not the same things. ARL's by definition would qualify for agricultural open space; however it is not the only land in Lewis County that qualifies for this. Any land that is in RDD also qualifies. We have currently in the Assessor's record over 133,000 acres that have been identified for agricultural open space designation. The ARL's element of that is only 90,000 acres.

Chairman Schulte closed the hearing and asked for a motion to approve

Commissioner Averill made a motion to approve Ordinance 1211. **Commissioner Grose** seconded the motion.

Commissioner Averill stated this was long overdue. There have been many text changes to the GMA. We have to comply with this law. We have worked to come into compliance by protecting private property. Over the years through various regulations, it has become a top down process. We had to comply with it. He is not saying what we came up with is the best thing for Lewis County, but under the circumstances we have done the best we could do. If we didn't have the approval from the GMHB, we would still be in a dilemma. We would still have 163,000 acres of land that we would not be able to do anything with. We are now in a position that we can go back into a normal process of looking at properties for zoning. This is a year long process; we can only do zoning changes once a year. This opens the doors to our incorporated areas for economic development in Lewis County.

Commissioner Grose stated the year long process is too long, but we have to do this by the State Law. Lewis County has spent millions of dollars to get out of invalidity with the GMHB. He took a pledge to do this when he ran for office. This will allow us to make decisions we were not able to make before while under invalidity.

Motion carried 3-0

Hearing

Ordinance 1212 Firearms in County Parks

Chairman Schulte announced the hearing and called for a staff report.

Bob Johnson, Community Development, stated that Ordinance 1212 was prompted by some citizens that stated that Lewis County Code (LCC) regarding firearms in County Parks was more restrictive than the State Law. This amendment is intended to clarify the display of firearms in parks and bring Lewis County into compliance with the State Regulations. He went over the proposed changes.

Commissioner Averill stated that it is interesting that predominately when laws are passed by the State Legislature as State Laws, normally jurisdictions are allowed to add to those laws. Depending on the circumstances they can be less restrictive or can be more restrictive than the State Law. Unfortunately in the area of gun control, this is an area that the State has reserved to its own authority. It preempts jurisdictions to adopt firearms regulations to the general public unless specifically authorized by the State Law. When we looked at our law we were more restrictive than the State Law. For this reason, we have decided to adopt the State Law by reference. Unfortunately the Ordinance is not complete; it only identifies one section of the State Law. We are trying to come into compliance with the state law.

Bob Johnson stated the Prosecutor's Office has recommended continuing the hearing to discuss further with them and the Sheriff's Office.

Chairman Schulte asked if anyone had any questions.

David Clark, Centralia, WA asked if this ordinance superseded WA State's Open Carry Law.

Sheriff Mansfield stated it does not.

Mr. Clark asked if he was openly carrying a pistol in a holster if that is different than a person is playing with their firearms.

Sheriff Mansfield stated that they are different. If someone is acting in a manner or displaying in a manner that promotes a safety concern issue for citizens that are around them, then we have an issue. This is not considered Open Carry.

Mr. Clark stated this ordinance is only addressing people who are acting in an inappropriate way.

Sheriff Mansfield stated our current ordinance stated in the parks you could not display or open carry, nor could you discharge a firearm. This change in the law will change some of that. Philosophically he is opposed to this change, but he realizes that the Commissioners have an obligation to follow the State Law. We cannot be more restrictive in the case of firearms. He is opposed the open carry and discharge

language but it is something we have to do in order to be in compliance with the State Law.

Chairman Schulte 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.

Bob Johnson asked that his previous comments be adopted into the record.

Sheriff Mansfield feels Ordinance 1212 deserves further discussion, particularly regarding the discharge language. He asked for a continuation of the hearing.

Pam Wilkins, Toledo, WA, is trying to gain information about this issue. Some of this information will affect how she does her job and how she communicates with her Officers that work in Lewis County State Parks. Her concerns are that citizens come to parks for recreation; they do not differentiate the difference between a State Park and a County Park. Any changes the Board makes will affect how they do their jobs in the State Parks. She wants to make sure everyone is communicating regarding this issue. **Chairman Schulte** asked do you allow open display of firearms in State Parks.

Ms. Wilkins stated we do not.

Chairman Schulte asked how they can do this if State Law says this.

Ms. Wilkins stated she cannot say for sure. She believes State Parks fall under the guides of wildlife preserves.

Commissioner Grose stated we would like any help we could get on the Legislation that will make this is a workable ordinance. One that we can pass and live with. Apparently the one we had on the books was not acceptable constitutionally.

Ms. Wilkins we would like to collaborate with this.

Chairman Schulte stated he is aware of individuals that may test the validity of the State Parks Law.

Commissioner Averill pointed out that when we originally looked at this law, a citizen in Seattle openly displayed a weapon, to challenge the law that Seattle had adopted under its former mayor. This is currently before the Courts. It may be that if the Courts come out with a ruling that provides Seattle the right to do this, that we can relook at this issue. His intention was to adopt the State Law by reference; unfortunately the document only has one section of the State Law to adopt. He recommends continuation of this hearing.

Commissioner Grose asked that Ordinance be tabled until a future date.

Commissioner Averill seconded the motion.

Motion carried 3-0

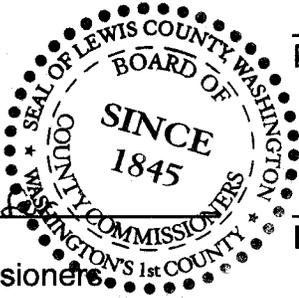
There being no further business, the Commissioners' public meeting adjourned at 12:02 pm, on January 25, 2010. The next public meeting will be held Monday, February 1, 2010, at 10:00 a.m.

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:

Carolice Hallam
Clerk of the Board
Lewis County Commissioner



[Signature]
P.W. Schulte, Chairman

[Signature]
Ron Averill, Commissioner

EXCUSED

F. Lee Grose, Commissioner