

## **TRI-COUNTY BOARD OF COUNTY COMMISSIONERS MEETING**

**Grays Harbor-Lewis-Thurston  
Thurston County Courthouse  
2000 Lakeridge Drive SW  
Building 1, Room 280  
Olympia, WA 98502**

**July 22, 2008  
Meeting Minutes**

### **COMMISSIONERS & TRIBAL MEMBERS**

Bob Beerbower, Commissioner, Grays Harbor County	Cathy Wolfe, Commissioner, Thurston County
Albert Carter, Commissioner Grays Harbor County	Robbi Kesler, Confederated Tribes of the Chehalis Reservation
Mike Wilson, Commissioner Grays Harbor County	Glen Connelly, Natural Resources Director, Confederated Tribes of the Chehalis Reservation
Ron Averill, Commissioner, Lewis County	
Richard Graham, Commissioner, Lewis County	
Lee Grose, Commissioner, Lewis County	
Bob Macleod, Commissioner, Thurston County	

### **OTHERS PRESENT**

Bob Johnson, Lewis County	Karri Muir, Lewis County
Jon Halvorson, Citizen	Lee Napier, Grays Harbor County
Don Krupp, Thurston County	Leif Nesheim, The Daily World
Dale Rancour, Thurston County	Elizabeth Petrich, Thurston County Prosecutor's Office
Susan Bogni, Thurston County	Mark Swartout, Thurston County
Cindy Bricker, Thurston County	Dick Blinn, Thurston County
Keith Phillips, Governor's Office	Mike Sharar, ESA Adolphson
Ed Holms, Thurston County Prosecutor	Michael Golden, Lewis County Prosecutor
Jim Baker, Grays Harbor County	Victoria Byerly, Lewis County Prosecutor's Office
Valerie Gow, Puget Sound Meeting Services	

### **CALL TO ORDER**

Lewis County Commissioner Ron Averill called the meeting to order at 2:03 p.m.

### **INTRODUCTIONS**

A quorum was present. Commissioners, Tribal members, staff, and guests provided self-introductions.

### **FLOOD AUTHORITY UPDATE AND INTRODUCTION OF FACILITATOR**

Commissioner Averill provided an update on the Flood Authority and progress since the last meeting in April. The Chehalis River Basin Flood Authority is once again a recognized legal entity. An interlocal agreement was approved by all jurisdictional legislative bodies and includes 10 members representing Grays Harbor, Lewis, and Thurston counties, cities of Aberdeen, Montesano, Chehalis, Centralia, and towns of Bucoda and Pe Ell. The City of Oakville has indicated an interest in joining the Authority. Currently, legislative representatives are approving an amendment to the agreement to include the City of Oakville as a member.

The Authority adopted rules of procedure for conducting meetings. Commissioner Averill was elected as Chair and Mark White was elected Vice Chair. The Authority is hiring a facilitator/consultant to work with the Authority on its primary objectives to conduct a basin-wide study, examine the U.S. Army Corps of Engineers project and evaluate how it relates to the study, and assist in the formation of a flood district.

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Lewis County, as the lead agent for the Authority, published a Request for Qualifications (RFQ). Eleven applicants submitted RFQs. The Flood Authority interviewed two candidates and selected ESA Adolphson as the Authority's facilitator/consultant.

Commissioner Averill introduced Mike Sharar, representing ESA Adolphson. Mr. Sharar reported the company is assembling a team to meet the Authority's needs. The team looks forward to advancing the Authority's objectives.

Commissioner Averill reported development of the facilitator/consultant's statement of work and contract is underway, which is anticipated to be reviewed at the July 23, 2008 Authority meeting in Lewis County.

Commissioner Averill referred to the legislative appropriation of \$2.5 million from the 2008 legislative session in House Bill (HB) 3375 for the basin-wide study. The Flood Authority or its successor is designated access to the funds to begin working on the objectives. Lewis County signed an interlocal agreement with the Office of Financial Management (OFM) and a fund account was established at Lewis County for administering the funds. The administrator of the funds is Bob Johnson with the Lewis County Community Development Department. Commissioner Averill acknowledged Mr. Johnson. A budget item has been created to begin the work of the Flood Authority.

Commissioner Averill commented on the excellent cooperation from the Governor's Office and state agencies. Keith Phillips from the Governor's Office is working closely with the Authority as well as representatives from the Washington State Department of Transportation (WSDOT), Department of Community, Trade and Economic Development (CTED), Department of Ecology (DOE), and the OFM to help establish the Authority, access funds, and participate in the initial discussions.

When HB 3375 was passed, a majority of the funds were designated to an existing project located within Chehalis/Centralia by the U.S. Army Corps of Engineers. The state is moving forward and signed an agreement with the Seattle District of the U.S. Army Corps of Engineers to complete an initial study of the original work completed in 2003. The results and new data from the 2007 flood will be applied against the model. There are concerns by surrounding communities in terms of the plan providing adequate protection to citizens who are in the path of any potential flood. If the first phase work shows the plan serves a purpose and should be pursued concurrence is required by all members of the Authority, Governor's Office, and the Legislature to move forward with completion of the project involving a design phase and eventual construction.

State agencies are ready to assist in the basin-wide study. In the work with the Corps, a member of the Authority, the facilitator, and others will meet with the state agencies and the Corps to beginning planning for the study.

Some federal movement has occurred, which is encouraging in terms of funding assistance. Senator Murray recently announced the Senate Appropriations Committee approved a \$1.2 million appropriation for the Corps project and a \$1 million appropriation for the basin-wide study. The House Appropriation Committee's proposal is \$500,000 for the Corps project and \$250,000 for the basin-wide study. Both issues are under consideration at the federal level and will require the review of both federal appropriation committees.

Commissioner Averill reported he expressed concerns to the Governor's Office and Congressman Baird regarding federal funds because the funds are provided directly to the Corps of Engineers and not to the

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Flood Authority. Currently, the Corps of Engineers is undertaking a General Investigation (GI) Study in cooperation with the Chehalis Basin Partnership. There is anticipation the study would be expanded to include the entire basin. Congressman Baird is coordinating several meetings with federal agencies in terms of what the Flood Authority is pursuing for the basin-wide study.

**DISCUSSION OF FLOOD DISTRICT FORMATION**

Lewis County Prosecutor Michel Golden referred to materials provided to Commissioners in June pertaining to the formation of a flood district, requirements for creating a district, and maps.

Mr. Golden said the presentation will cover a process created in 1937 under the Flood Control Act. The act provides for the creation of flood protection districts involving two or more counties. In this instance, it pertains to the Chehalis River basin which encompasses three counties, cities, towns, and tribal land. Tribal land can be included if it's consistent with federal statute. The issue includes involvement of the Bureau of Indian Affairs and Secretary of Interior if there is going to be any voluntary cooperation agreement between the flood control district and the Tribes. However, no assessments can be attached to tribal land.

The goal is to create a flood control district as soon as practicable before the next 100-year storm. The purpose of a flood control district includes identifying flood protection projects within the basin to include dikes, levees, drainage, and/or retention devices in the upper reaches of the basin to the mouth of the basin. The state indicated an interest in forming a flood control district for the Chehalis River basin. The formation of the district also keeps basin residents informed. Funding can include local, state, and contracting with federal agencies, which is why it's recommended to establish a flood control district under Revised Code of Washington (RCW) 86.09. Under RCW 86.09, specific language authorizes the flood protection district to act as an agent of the United States in the expenditure of funds.

A flood control district can include multiple counties, is a public corporation, and has all the regulatory powers of a corporation to include entering into contracts, establishment of a board, and adopting a set of bylaws. Additional powers include investigating, planning, constructing, improving, repairing, or acquiring structures necessary for flood protection. A district also has eminent domain authority and the rights to use state rights-of-way. The district may also impose an assessment on state property. The flood control district can be created by resolution, which is the proposal. The resolution must be passed by each county commission and include the boundaries of the proposed projects. After passage of the resolution, county engineers have 90 days to investigate and report on the feasibility of the projects. If the projects are found feasible and the boundaries are appropriate a public hearing is conducted for determination of whether the proposal should be pursued as a ballot measure. After the hearing, findings are issued and authorization is issued to create a district.

Mr. Golden reported the election process is stipulated in RCW 85.38 if the counties authorize the creation. An election must be held and a simple vote of the voter electors is needed. The statute may or may not be problematic in terms of the voter electors across three counties pertaining to a simple majority, as the statute is not specific. The issue is whether a simple majority is required in each county or a simple majority across the district. There is room for legislative clarification on the issue. He noted that if the district is approved in two counties and not the third, a district could be created encompassing the lands in the two counties. Ways to address the possibility is specific language on the ballot title and the ballot issue. Commissioners will need to discuss the issues and render a policy choice.

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The governing body of the Authority is initially appointed by the legislative authority in the county with the largest land area within the district. Mr. Golden referred to maps of the land within the basin. Lewis County has the majority of the land. However, the recommendations for the outer boundaries may not coincide with the actual basin width.

The initial board serves until successors are elected and qualified. Terms are six years. The governing board provides for three members from registered voters within the district. Membership is not based on electing a member from each county. To change the membership composition, legislative action is required. Any registered voter within the district can be a candidate for the board.

Once formed, the district is a distinct, legal entity separate from the county. Counties are not liable or responsible for the district's conduct. By statute the county with the largest land area within the district approves the district's budget based on an assessment schedule. The county with the largest area determines the system of assessment, approves the budget, and the treasurer of the district is the ex-officio of the entity. The district can enter into contracts with the state, federal government, and federal agencies as well as the Tribal authorities.

Mr. Golden reported currently, the flood authority and the Chehalis Basin Partnership are likely the greatest sources of knowledge up and down the river basin and should be the bodies to rely upon and/or contract with as technical advisors/committees to provide information.

Mr. Golden referred to 100 and 500-year flood maps of Lewis County and noted he was unable to obtain maps of Thurston and Grays Harbor counties. After the creation of the flood districts, decisions must be rendered on which areas are most greatly benefitted to the least benefitted from any flood protection devices or structures. Areas receiving the most direct benefit will receive 100% of the assessment with assessment rates increasing dependent on level of protection received. The public is notified of the potential assessment by parcel value calculations with each property owner receiving a notice within the district.

Mr. Golden invited questions. Commissioner Averill requested additional information on the electors. Mr. Golden reported applicable RCWs include 86.09 and 85.38. Electors are individuals who own property within the proposed district boundaries who are registered voters. There will need to be a determination of whether voters not subject to assessment, such as Tribal members and the federal government, can have a vote. Commissioner Averill said the second piece pertains to voters who have a substantial amount of property receiving more than one vote. Mr. Golden said it's covered under RCW 86.09. The provisions allows for one vote for property owners of land up to 10 acres. For every 10 acres or the largest part of the 10 acres above the original 10 acres, the voter receives two additional votes. Public policy at that time was to prevent cities from controlling the outcomes to the detriment of rural landowners.

Commissioner Wolfe questioned the situation of an absentee landowner registered to vote in another state or another area. Mr. Golden said the owner must be a registered voter within the proposed district boundary.

Commissioner Carter commented that it's unlikely officials are ready to place ballot measure. Mr. Golden reminded Commissioners of the need to have a study completed by engineers. Commissioner Carter said determining the flood district boundary is not possible until projects have been determined, and that should be the first priority item. Mr. Golden suggested the next step should include county

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engineers and prosecuting attorneys looking at potential projects within each of the counties. Commissioner Carter added that there should be a discussion for prioritizing the projects. Commissioner Averill said the Flood Authority can be involved through the facilitator's assistance. One of the goals is identifying problems and projects. He acknowledged county engineers, prosecuting attorneys, and the facilitator need to be part of the discussion.

Commissioner Averill referred to the aggregate limits on property taxes in terms of junior taxing districts under state law. Flood authorities are the second entity on the list that are most impacted. Library districts are the last on list, which means property tax funding is protected for libraries more so than for flood authorities. He indicated he will be speaking to the Washington State Association of Counties (WSAC) Legislative Steering Committee about the advisability of revising the schedule.

Commissioner Carter provided a list of statutes governing the creation of a flood control district. Mr. Golden acknowledged that there is a multitude of statutes governing creation of flood protection districts, but fewer statutes governing the creation of multi-county flood protection districts. RCWs 85.30 and 86.09 are the primary statutes for multi-county districts. They also appear to be more flexible and appear to be designed for more interaction with federal authorities. Commissioner Carter asked whether the option of expanding the three member governing board was explored. Mr. Golden advised that it requires a legislative change.

Mr. Golden reported Northwest Hydraulic Consultants is under contract with Lewis County. The consultant is using the Corps model to develop FEMA mapping for 100 and 500-year floodplains within Lewis County. The dataset is on Grand Mound and it's unknown if a model exists downstream of Grand Mound. Currently, the consultant is taking 2007 data and feeding it to the model, which was previously calibrated from the 1996 flood. Within the next month, the known flows and the calculated flows from the December 2007 event will be computed to show an inundation area in depth, which can be compared to the historic measurements to ground proof the model. After that is completed, levees, dikes, or retention devices can be added to document what options are necessary. It may be another month to determine whether the results of the current Corps plan or other measures that are implemented are effective. It's important to determine if the Grand Mound data will link seamlessly with the data downstream.

Commissioner Averill said when first reports were received from state and federal agencies on the impact of the flood, there were some disagreements in terms of the official study indicating there was no blockage of water in the upper basin impacting downstream areas. A recent report from the agencies indicated there was blockage.

Commissioner Wolfe inquired about timing for legislative changes. Commissioner Averill affirmed it's an item of discussion in terms of whether to pursue legislative changes. The two issues include expansion of the board and current law establishing the electorate for the flood district. Commissioner Wolfe suggested another issue is the issue of a simple majority. Mr. Golden noted any changes in the RCWs will require legislative action.

Commissioner Averill shared information on his discussion with Representative Gary Alexander, who has expressed interest in supporting any legislative changes.

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Commissioner Graham asked whether state agency landowners are entitled to vote. Mr. Golden said state landowners are not a qualified electorate. Commissioner Averill said there is an RCW requiring WSDOT to pay its share of any flood district protections.

Mr. Golden reported flood control boardmembers receive a compensation of up to \$5,000 annually.

Commissioner Graham asked about potential ramifications if one or more counties converted to a council-manager government entity. Mr. Golden said such action has no effect as the flood district is created as a separate entity. Any changes in county structures have no impact.

Commissioner Wolfe asked about the next steps. Commissioner Averill suggested giving Commissioners time to reflect on the issues and undertaking internal discussions and then scheduling another meeting to determine the direction of the next steps to take. The second issue pertains to the difficulty of having citizens campaign for a flood control district if the projects are unknown at this point. That is an immediate requirement of the facilitator to establish the projects. He recommended against considering a November ballot issue. If legislation changes are pursued, then the election date will need to be addressed.

Commissioners discussed membership of the board, which under current law allows three commissioners. Commissioner Averill recommended a five-member board because of the size of the district encompassing both rural and urban areas. Commissioner Carter suggested including the issue on the list of to do items for the prosecuting attorneys.

Commissioners reviewed current law regarding assessments and the electorate.

**Commissioner Averill moved, seconded by Commissioner Carter, to request the Prosecuting Attorneys draft by September 15, 2008, recommended legislation for the issue of simple voter majority, and explore the issues associated with the board composition in terms of number of commissioners from three to five and establishment of the electorate for the district.**

Commissioner Grose commented on the situation of a property owner living in another district. There are many people who own property in the proposed boundaries of the flood control district but will be unable to vote because they don't live there. That's something that needs to be further examined because when the law was enacted, property owners lived on the land, which rightfully entitled them to more votes because it affected them more directly. Commissioner Averill said another distinction to consider are the land holdings by large timber companies who receive open space tax breaks. Commissioner Wolfe said she would like to have the attorneys explore the issues and include pros and cons of both issues.

**Motion carried unanimously.**

Commissioner Averill recommended a motion to charge the Flood Authority in cooperation with the prosecutors and county engineers to develop a list of projects. Commissioner Wolfe questioned whether the direction is to develop a proposal on the approach rather than developing the list of projects. Commissioner Averill said the Flood Authority has requested jurisdictions send a list of problem areas. The list is substantial and the facilitator has been asked to review the list. The second step pertains to the projects needed to mitigate the problems. Numerous studies have been completed beginning since 1929. He suggested having the facilitator review the studies prior to purchasing them from the Corps.

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Commissioner Macleod said that beyond the many assumptions rendered through many months of work, one of the reasons for hiring a facilitator at this point was for the facilitator to undertake the research of all the available studies.

**Commissioner Wolfe moved, seconded by Commissioner Carter, to recommend the Flood Authority/facilitator in cooperation with the prosecutors and county engineers develop a plan of projects.**

Commissioner Wolfe said she's somewhat uncertain about intent of a motion and requested verification from legal counsel. Ms. Petrich advised that the intent of the motion is for the facilitator to examine existing studies and began compiling projects in consultation and cooperation from the Prosecutor's Office in terms of legal issues and with county engineers for technical and feasibility issues.

**Commissioners Wolfe and Carter withdrew their motion.**

**Commissioner Carter moved, seconded by Commissioner Wilson, to recommend the Flood Authority/facilitator in cooperation with the prosecutors and county engineers develop a plan of projects. Motion carried unanimously.**

**ADJOURNMENT**

**Commissioner Grose moved, seconded by Commissioner Wolfe, to adjourn the meeting at 3:17 p.m. Motion carried unanimously.**

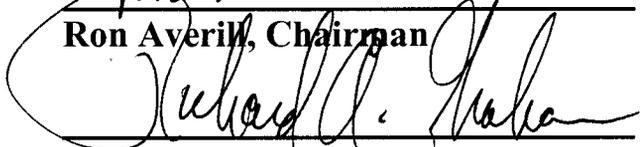
Prepared by: Valerie Gow, Recording Secretary/President  
Puget Sound Meeting Services

**BOARD OF COUNTY COMMISSIONERS**

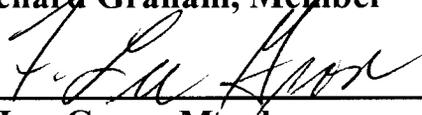
**LEWIS COUNTY**



**Ron Averill, Chairman**



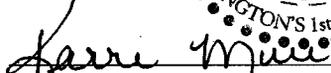
**Richard Graham, Member**



**F. Lee Grose, Member**



ATTEST:

  
Karri Muir Clerk of the Board  
of County Commissioners

**BOARD OF COUNTY COMMISSIONERS**

**THURSTON COUNTY**

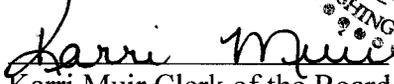
  
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**Diane Oberquell, Chairman**

  
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**Cathy Wolfe, Member**

  
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**Robert Macleod, Member**



ATTEST:

  
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Karri Muir Clerk of the Board  
of County Commissioners

**BOARD OF COUNTY COMMISSIONERS**

**Grays Harbor**

Albert A. Carter  
**Al Carter, Chairman**

Bob Beerbower  
**Bob Beerbower, Member**

Mike Wilson  
**Mike Wilson, Member**

ATTEST:

Donna Carter Harrington  
Clerk of the Board  
of County Commissioners

